

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

UNITED STATES OF AMERICA,) Case No. 12-CR-138-TOR
)
Plaintiff,) September 27, 2013, AM
) Spokane, Washington
vs.)
) Sentencing Hearing
MICHAEL JAMES PAUCKERT,)
) Pages 1 - 113
Defendant.)

BEFORE THE HONORABLE THOMAS O. RICE
UNITED STATES DISTRICT COURT JUDGE

APPEARANCES:

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SENTENCING - SEPTEMBER 27, 2013

1 (Court convened on September 27, 2013, at 9:01 a.m.)

2 THE COURT: Please be seated.

3 THE COURTROOM DEPUTY: The matter before the Court is
4 United States of America v. Michael James Pauckert, Case No.
5 12-CR-138-TOR, time set for sentencing.

6 Counsel, please state your presence for the Court and
7 record beginning with the plaintiff.

8 MR. OHMS: Good morning, your Honor. Tim Ohms on
9 behalf of the Government.

10 THE COURT: Good morning.

11 MR. FISCHER: Bob Fischer, your Honor, on behalf of
12 Mr. Michael Pauckert.

13 THE COURT: Good morning.

14 MR. FISCHER: Good morning.

15 THE COURT: I understand we have some witnesses and
16 evidence to call. Does that impact the guideline calculation?

17 MR. OHMS: I don't believe so, your Honor, no.

18 THE COURT: All right.

19 MR. OHMS: The exhibits do include letters of which
20 were the subject of the obstruction. But, I think, those
21 letters have already been provided or submitted through
22 different exhibits. And, so, I think, that the exhibits that
23 are offered today to that extent will be redundant.

24 THE COURT: All right. Well, Mr. Fischer, do you have
25 evidence or witnesses that affect the guideline calculation?

SENTENCING - SEPTEMBER 27, 2013

1 MR. FISCHER: No, your Honor. I made my objections,
2 as you know, I -- that could affect the guideline calculation,
3 the obstruction of justice. But I have no witnesses, Judge.

4 THE COURT: Okay. All right. Well, why don't we take
5 the witness testimony and all the evidence; and, then, we'll go
6 through my findings with respect to the guidelines. And, then,
7 we'll hear further argument about departures or variances.

8 So, Mr. Ohms, I'll hear from you now.

9 MR. OHMS: Your Honor, the Government has two
10 witnesses. Before I call my first witness, the Government also
11 provided an exhibit list; and I've provided Mr. Fischer with a
12 copy of the exhibit -- the proposed exhibits, which were 1
13 through 15. And I understand from Mr. Fischer that he's not
14 objecting to those. So, the Government would offer those at
15 this time, Exhibits 1 through 15.

16 MR. FISCHER: That's correct.

17 THE COURT: Okay. Those will be admitted for purposes
18 of this hearing.

19 (Exhibit No. 1, 2, 3-a, 3-b, 4, 5, 6, 7, 8, 9, 10, 11, 12,
20 13, 14, and 15 admitted into evidence)

21 MR. OHMS: Your Honor, I intend to publish those
22 through the testimony of witnesses using the ELMO. Would the
23 Court prefer to have its own copy -- hard copy of those?

24 THE COURT: No, that's fine. I've got a screen here.

25 MR. OHMS: All right. The Government calls Special

SENTENCING - SEPTEMBER 27, 2013
L. McEuen/DI - OHMS

1 Agent McEuen.

2 THE COURT: Mr. McEuen, stop there, raise your right
3 hand to be sworn.

4 (LELAND McEUEEN, called by the Plaintiff, was sworn)

5 THE COURT: Have a seat and adjust the microphone. I
6 want you to state your first and last name. Spell your first
7 and last name.

8 THE WITNESS: Leland McEuen, L E L A N D. M C E U E N.

9 THE COURT: Please proceed.

10

11 DIRECT EXAMINATION

12 DIRECT BY MR. OHMS:

13 Q Sir, how are you employed?

14 A I am a Special Agent Bomb Technician with the Federal
15 Bureau of Investigation.

16 Q How long have you been employed as a Special Agent with the
17 FBI?

18 A Approximately 14 years.

19 Q And how long have you been a bomb technician?

20 A Approximately 12 years.

21 Q And what does that involve?

22 A I have additional training in rendering safe improvised
23 destructive devices and in the technology of making -- rendering
24 safe such devices.

25 Q Okay. Where are you assigned?

SENTENCING - SEPTEMBER 27, 2013
L. McEUN/DI - OHMS

1 A Spokane Resident Agency.

2 Q And how does your position as a bomb technician affect your
3 assignments here in Spokane, the Spokane area?

4 A I'm assigned any of the improvised explosive devices that
5 are found or investigated with a federal nexus.

6 Q And, sir, do you have any additional responsibilities with
7 regard to crimes committed over the Internet?

8 A Yes. I'm also the investigator for child pornography.

9 Q And do you have any specialized training, experience, or --
10 or training or experience in that field?

11 A Yes. I've been investigating such crimes for the entire
12 time I've been an FBI agent. I have additional training in
13 computer forensics, child psychology, and interviewing
14 techniques.

15 Q All right. Sir, as part of your official responsibilities,
16 did you become involved in an investigation that included the
17 defendant in this case?

18 A Yes, I did.

19 Q And how did you become involved in that investigation?

20 A On May 23rd, I received a call from the bomb squad that
21 they had located a device and that a suspect had been taken into
22 custody.

23 Q All right. Now, did you, ultimately, receive a briefing
24 from law enforcement concerning what they had found?

25 A Yes.

SENTENCING - SEPTEMBER 27, 2013
L. McEUN/DI - OHMS

1 Q Did you personally participate in the recovery of that
2 device?

3 A Yes.

4 Q Did you personally participate in the investigation of that
5 device?

6 A Yes.

7 Q Did you personally examine the device?

8 A Yes.

9 Q All right. Now, the Court already has summary information
10 about the offense conduct in this case so I'm not going to cover
11 the entire, you know, scope of what you may have done or
12 observed in this case. But I would like you, focusing first on
13 the explosive device, to tell us where it was located at the
14 residence first.

15 A Yes. It was found hanging on a nail in the kitchen inside
16 of a computer bag. Not the kitchen, the garage.

17 Q All right. And what type of device was it?

18 A Basically, it was a remote controlled pipe bomb, would be
19 the best description of it, with additional shrapnel added to
20 it.

21 Q What were its components?

22 A It had a -- what was determined to be a, doorbell --
23 wireless doorbell switch receiver on it that was attached to a
24 ABS plastic pipe. That pipe had a -- been shaved down on the
25 sides to make one edge of the wall more susceptible to failure

SENTENCING - SEPTEMBER 27, 2013
L. McEUN/DI - OHMS

1 making it a directional-type device. And, on top of where that
2 was shaved, there was, approximately, 75 pieces of shrapnel
3 encased in a thin plastic tube.

4 The device was actuated by a doorbell switch, which was
5 also found in the garage on top of some explosive powder; and
6 the lab determined that it was capable of being actuated up to
7 242 meters away.

8 Q Okay. "Actuated" meaning you could set it off.

9 A You could blow it up, yup.

10 Q How would you blow it up?

11 A You would push a doorbell switch, which was separate from
12 the device. That would, then, send a signal to the receiver.
13 The receiver would decode the signal; would then --

14 Q Where was the receiver located?

15 A The receiver was, actually, tied to the -- the pipe bomb.

16 Q Okay. So, this is a wireless doorbell device?

17 A Yes.

18 Q Okay. So, you'd push the doorbell; and, then, it sends a
19 signal to the receiver. And, then, what happens?

20 A The receiver, then, actuates a wire that would heat up.
21 And there were four Christmas light bulbs that had been cut, one
22 of which still had solder on it next to the -- it wasn't,
23 actually, in the bomb itself. The -- what we call "initiators"
24 -- Christmas tree light bulb initiators were next to the powder.
25 But the way it's designed is that those light bulb would act as

SENTENCING - SEPTEMBER 27, 2013
L. McEUN/DI - OHMS

1 a electric match, which would, then, initiate the powder. The
2 powder would expand and speed up the explosion from its own
3 compression. Then, it would rupture the casing and send the
4 shrapnel out at a high rate of speed.

5 Q And did the device require any batteries?

6 A Yes. It had a three-cell battery attached to the doorbell
7 switch to act as the -- the power source.

8 Q And could you tell whether the battery was functional when
9 the device was encountered?

10 A The doorbell switch had an illuminated LED light-emitting
11 diode showing that it was powered on.

12 Q Did you, in your examination of the device, see any
13 indication of whether it had ever been armed?

14 A In -- in bomb terms, "arms" means -- "armed" means that it
15 is functioned. In this case, the circuitry appeared to have
16 been completed. The wires ended inside the pipe, but there was
17 not an actual Christmas tree light bulb attached to it. But it
18 did have solder showing that it had had an initiator attached to
19 it at some point.

20 Additionally, there was remains of the same black powder or
21 Pyrodex Powder -- explosive powder inside the pipe. There were
22 some remains still in the pipe. So, it appeared that it had
23 been fully armed at one point.

24 Q Okay. You mentioned "Pyrodex." Is that a brand of powder?

25 A Yes, it is.

SENTENCING - SEPTEMBER 27, 2013
L. McEUN/DI - OHMS

1 Q And is that the explosive material that was involved in the
2 manufacture of this explosive device, based upon your
3 observations?

4 A Yes.

5 Q All right. Now, I'm going to show you a couple of
6 exhibits. First is Government's Exhibit 1. Could you tell us
7 what that is, sir?

8 A That is the HP computer case hanging on a nail in the
9 garage of 1412 West Cora Court.

10 Q And what is the significance of that case?

11 A That case contained the pipe bomb.

12 Q Next is Exhibit 2. What is that, sir?

13 A That is an x-ray that was taken by the bomb squad of the
14 pipe bomb inside that case in place.

15 Q Okay. I think you can indicate by pointing to the -- if
16 you would, by pointing to the screen, you can make marks and
17 indicate the components of the bomb that we're looking at.

18 A Certainly. On the upper right-hand corner that I just
19 circled, that's the receiver, the antenna to the doorbell
20 switch. That's attached to the micro controller for the
21 doorbell switch. That's the receiver part of it.

22 Below that is the three-cell battery power supply. You can
23 trace the wires going from the power supply into the pipe bomb.
24 You can see connections made to those wires. At the end of
25 those wires, there's globs of solder still attached to those

SENTENCING - SEPTEMBER 27, 2013
L. McEUN/DI - OHMS

1 wires.

2 Beneath that is a test tube looking thing with 75 pieces of
3 shrapnel made out of screws and nails.

4 Q All right. Was the shrapnel attached to the bomb itself?

5 A Yes, it was. It was taped on.

6 Q Now, I'm making a mark now, which is, basically, the outer
7 outline. What is that?

8 A That is the outline of the HP computer case that the pipe
9 bomb was in.

10 Q Okay. So, does that give a sense of scale as to the size
11 of the device?

12 A Yes.

13 Q Next is Government's Exhibit 3-a. Exhibit 2 was an x-ray.
14 Is that correct?

15 A Correct.

16 Q And what is Exhibit 3-a?

17 A 3-a shows the pipe bomb after it'd been rendered safe.
18 What we did was we cut off the base of the pipe so that, if
19 there was filler in it, it would vent and, therefore, not
20 explode anymore.

21 And, then, the other piece is the test tube that I cut off
22 of it. Because the test tube was colored, I couldn't tell
23 whether or not the shrapnel had been spiked with additional
24 things. And, so, I had to cut that off to examine it to make
25 sure it was safe.

SENTENCING - SEPTEMBER 27, 2013
L. McEUN/DI - OHMS

1 Q Okay. And where would the shrapnel have attached to the
2 bomb?

3 A You see at the base of the picture there's some black tape
4 that had been cut off? And that's where the shrapnel was
5 originally attached. You can also see scoring on the pipe
6 where -- and the shrapnel was directly next to that scoring.

7 Q Okay. So, the scoring is this lighter gray area
8 (indicating)?

9 A Correct.

10 Q Next is Government's Exhibit 3-b. I think you can just --
11 for the record, just tell us what that is. We're not going to
12 go through the individual components because I believe it
13 shows --

14 A Certainly. It's a -- it's a color photograph of the same
15 pipe bomb and the ampule, which I put the remains of the powder
16 in that was from the pipe.

17 Q Okay. Government's Exhibit 4. What is that, sir?

18 A That's a close-up of the scoring or the shaving of the pipe
19 bomb. It appears to be an attempt to weaken that side of the
20 pipe bomb in an attempt to make it a directional-type explosive
21 device.

22 Q Well, have you encountered that as a technique in bomb
23 making?

24 A Yes.

25 Q All right. So, that -- it's not just speculation on your

SENTENCING - SEPTEMBER 27, 2013
L. McEUN/DI - OHMS

1 part?

2 A No.

3 Q Now, what -- if we turned this casing over, would it appear
4 the same on the other side?

5 A No.

6 Q How would it appear on the other side?

7 A The other side had no shaving or scoring on it. It was a
8 regular pipe exterior.

9 Q All right. Now, did this shaving appear to have been made
10 with any particular type of device?

11 A Some type of grinding wheel and some type of knife.

12 Q Why do you say, "some type of knife"?

13 A There's additional cuts. There's -- you can see it a
14 little bit -- an X pattern cut into it to add -- to further
15 weaken the pipe.

16 Q Okay. And, without getting into the intentions, what would
17 the effect of that be?

18 A That would weaken that side of the pipe so the explosion
19 would occur on that particular side of the pipe first. And,
20 because the shrapnel was directly above that section, it would
21 increase the effectiveness of the shrapnel in a single
22 direction.

23 Q So, is this a directional device?

24 A It would cause damage all the way around it, but the most
25 deadly or lethal aspect of the device would be directly behind

SENTENCING - SEPTEMBER 27, 2013
L. McEUN/DI - OHMS

1 that scoring.

2 Q All right. Now, do certain designs have a specific purpose
3 or function?

4 A Yes.

5 Q And, based upon your experience, what would be the function
6 of this device?

7 A This device is what we call a "command detonated." In
8 other words, the bomber would have to function the device at his
9 particular time and location. The device would be placed and,
10 then, waited for the events or the person that's targeted to
11 come near the device. And, then, the bomber would, actually,
12 have to push a button to blow up the device and cause the damage
13 intended.

14 Q All right. But can you tell whether this type of design is
15 intended to damage property or damage individuals or -- or what?

16 A Because it's directional and command detonated, it is more
17 intended to function at a specific event and at a specific
18 location. My experience with these types of devices is they are
19 designed to be lethal to a specific person. If you wanted to
20 just damage a building, you could use a simple fuse device; and
21 it would go off at any particular time. You couldn't specify
22 the exact time that it would go off.

23 So, these types of devices that are command detonated with
24 the directional shrapnel are more designed to -- to kill a
25 specific location or person.

SENTENCING - SEPTEMBER 27, 2013
L. McEUN/DI - OHMS

1 Q Okay. Would you use shrapnel if your intention was to
2 damage a building?

3 A You could add shrapnel, but you would normally just put it
4 all the way around the device. The device it's going to have
5 shrapnel from the casing itself.

6 Q Right.

7 A So, there's going to be damage all over. But, by creating
8 a very specific directional device, it's more designed to -- to
9 kill a person.

10 Q Okay. Next is Exhibit 5. What are we looking at there,
11 sir?

12 A This is in the garage, and you'll see a bottle of Hodgdon's
13 Pyrodex; and above the bottle on the cap itself is the initiator
14 for the bomb.

15 Q Okay.

16 A I can circle that for you.

17 Q Thank you.

18 A And, then, below that are three Christmas tree light bulbs
19 that have been cut off and their wires stripped consistent with
20 being improvised electric matches to initiate bombs.

21 Q All right. So, let me move away from the bomb, then, and
22 ask you about Government's Exhibit 6. What is that, sir?

23 A That is the firearm recovered from Cora Court.

24 Q Okay. And is that the firearm that is the subject of --
25 which is it? Count -- Count 1 in the present case?

SENTENCING - SEPTEMBER 27, 2013
L. McEUN/DI - OHMS

1 A Yes.

2 Q All right. Exhibit 9?

3 A This was also recovered from Cora Court. It is a receipt
4 from Sharp Shooting Indoor showing the rental of two .40 caliber
5 handguns, the purchase of .40 caliber ammo, the purchase of 9 mm
6 ammo, as well as hearing and eye protection and, I believe,
7 targets.

8 Q Okay. And what was the cost of those items?

9 A Approximately \$80.

10 Q And you indicated that there were two different types of
11 ammunition purchased?

12 A Correct.

13 Q Were either of those types of ammunition consistent with
14 the firearm that we observed in Exhibit 6?

15 A No.

16 Q All right.

17 THE COURT: What's the date of that receipt?

18 THE WITNESS: It is May 3rd, 2012. I'm sorry.
19 March 31st.

20 MR. OHMS: Yeah, I was going to say.

21 THE WITNESS: March 31st, 2012.

22 Q (BY MR. OHMS) I'm going to -- for the -- I guess, since
23 the Court's asked the question, I'm going to zoom in here a
24 little bit. Did I circle the date appropriately there on the
25 ELMO?

SENTENCING - SEPTEMBER 27, 2013
L. McEUN/DI - OHMS

1 A Yes. March 31st, 2012.

2 Q All right. Sir, moving on, did you become aware of a
3 couple of backpacks or -- or go-bags that were found --

4 A Yes.

5 Q -- in the residence where the defendant was also found?

6 A Yes.

7 Q And were those go-bags associated with the defendant in
8 this case?

9 A Yes.

10 Q How so?

11 A By witness identification. They were also located in the
12 closet where he was living at the time and in -- next to his
13 personal property.

14 Q All right. And one of these --

15 A I'm sorry. Plus his identify -- there were identifying
16 documents in one of them.

17 Q One of these was a green bag and one of them was a
18 camouflage bag?

19 A Yes.

20 Q Is that accurate?

21 A Yes.

22 Q All right. With regard to the green bag, did you find any
23 items of interest to you in your investigation?

24 A Yes.

25 Q Would you describe those to the Court, please?

SENTENCING - SEPTEMBER 27, 2013
L. McEUN/DI - OHMS

1 A I was going to rely on the exhibit, if I may.

2 Q Okay. Then we'll use the exhibit.

3 A Thank you.

4 MR. OHMS: This is Exhibit 7, for the record. Whoops.
5 Going the wrong way. There we are.

6 THE WITNESS: Okay. In the -- in the green bag, I
7 located two condoms, a flashlight, a nitrile glove and a Walther
8 PP (sic) -- a Walther handgun look alike that was a BB gun.

9 Q All right. But this -- this is not -- I'm circling what
10 looks like a handgun. That is not a firearm?

11 A It's not a real gun. It just looks like one.

12 Q And the blue item that I've circled?

13 A The nitrile glove.

14 Q What is that?

15 A It's a glove that's usually used for -- when you're
16 possessing chemicals.

17 Q Next is Exhibit 8.

18 A This was an Army Strong camouflage bag, and the black item
19 is a full-face mask. Below that is first aid type tape. There
20 are two sets of, what we call, flex cuffs. They are -- I'll
21 circle them. So, I'm circling them. These are interlocked to
22 act as handcuffs. There's a flashlight, some maps, some pens,
23 and a -- and a poncho.

24 Q And, for the record, what were the maps?

25 A The maps were of Boise and Washington.

SENTENCING - SEPTEMBER 27, 2013
L. McEUN/DI - OHMS

1 Q All right. Now, did either of these two kits or go-bags
2 cause you any concerns as an investigator?

3 A Yes.

4 Q And why was that?

5 A Based on my investigation of other sex crimes, it appeared
6 to have been a rape kit. Additionally, in the documentation of
7 Pauckert, we found a name of a sex offender who was involved in
8 a takeover robbery in Idaho in which flex cuffs were used and a
9 gun were also used to take over the store to commit the robbery.

10 Q All right. Now, let's talk a little bit about the
11 materials that were found for the manufacture of counterfeit
12 identifications.

13 A Yes, sir.

14 Q Were you familiar with those items?

15 A Yes.

16 Q And do you recall what was found?

17 A Yes. In a Creative Memory kit -- or Creative Memory bag, I
18 found a -- what I would describe as a fake ID making kit. It
19 had inks. It had the partially completed and completed fake
20 IDs. It had templates for Washington State, Washington State
21 IDs, and for Nevada Gaming -- I'm sorry, Nevada Police
22 Department identifications.

23 Q All right. Showing you Government's Exhibit 10, what is
24 that?

25 A That is the Creative Memories fake ID kit.

SENTENCING - SEPTEMBER 27, 2013
L. McEUN/DI - OHMS

1 Q And there appears to be a stamp on the bag?

2 A Yes, sir.

3 Q Do you recall what that is?

4 A I don't remember what exactly stamp that was of, but it was
5 part of the kit. There were -- to create these IDs, you need
6 ultraviolet light and you need a -- I think that was the Seal of
7 the State of Washington, the ultraviolet one. And he had
8 ultraviolet ink, as well, inside the kit to make fake drivers'
9 licenses?

10 Q Next is Exhibit 11.

11 A That's a stencil that we saw purchased under his name that
12 has the similar script to what's on your Washington driver's
13 license.

14 Q Next is Exhibit 12.

15 A Those are the Las Vegas Metropolitan Police Department
16 non-gaming identifications. There were several of these. This
17 is just an example.

18 Q Okay. Did you investigate these sufficiently to determine
19 whether or not the person depicted in the identification is the
20 same person whose name is listed on the identification?

21 A There were several different IDs; and the ones that we did
22 check, all of them were fake. The name and the numbers did not
23 match up.

24 Q With what?

25 A With the computer data from Las Vegas.

SENTENCING - SEPTEMBER 27, 2013
L. McEUN/DI - OHMS

1 Q Okay. Now, did you, in your investigation, find evidence
2 of computers associated with the defendant?

3 A Yes, I did.

4 Q How many?

5 A Specifically, there was an Acer computer that was
6 identified directly with the -- the -- the defendant. That also
7 had identification of the fake drivers' licenses that was
8 consistent with what we found in the creative kit.

9 Additionally, the witnesses said that he access to an HP
10 computer that belonged to his girlfriend, Cesley, and that he
11 also used another computer in the household at Cora Court.

12 Q All right. When you say the Acer computer had
13 identification of fake drivers' licenses, do you mean -- what do
14 you mean by that?

15 A It had the templates. The computer would run the printers
16 that were also located next to the kit, and it had the -- the
17 pictures and the templates that you would put together on the
18 computer to create the IDs.

19 Q Did you find evidence that the Acer computer, which you
20 associated with the defendant, had been used to access the
21 Internet?

22 A Yes.

23 Q Did you find evidence on the computer that the defendant
24 was in possession of pornography?

25 A Yes.

SENTENCING - SEPTEMBER 27, 2013
L. McEUN/DI - OHMS

1 Q Did you find evidence on the computer that the computer had
2 been used to access child pornography?

3 A There was a graphic that I've learned that is associated
4 with child pornography.

5 Q What was that?

6 A It's called Pedobear. It's a bear-like graphic that is put
7 on by a specific pornographer saying -- that shows that this
8 type of child pornography is good child pornography -- like, the
9 best -- that someone interested in that would be looking for.
10 But I did not find child pornography itself.

11 Q Based on your experience, why would that image appear on
12 the computer without the actual pornography on the hard drive?

13 A There's many reasons that it would be there and not the
14 pornography, but the main one is that there are certain images
15 that can be wiped. There are certain access controls that could
16 be used to not allow the image to remain on the computer. You
17 could view it, but it would not stay on that computer.

18 Q What about video?

19 A Video, specifically, would not be retained unless
20 intentionally retained on the computer.

21 Q Why would the -- I'm sorry. What did you call the image
22 again?

23 A A graphic.

24 Q Specifically, what type of graphic again?

25 A Pedobear.

SENTENCING - SEPTEMBER 27, 2013
L. McEUN/DI - OHMS

1 Q Pedo?

2 A Pedo, yeah, as in pedophile.

3 Q Okay. Why would the Pedobear graphic remain on the
4 computer if a person accessed -- used the computer to access,
5 say, a video of child pornography?

6 A Because it's a graphic image, it would have -- it would be
7 downloaded onto the actual computer versus a streaming image,
8 such as, video.

9 Q All right. Did you cause the computer to be examined to
10 identify various search strings indicating Internet sites and
11 Internet searches that may have been conducted by the user of
12 the computer?

13 A I did.

14 Q And what did you find with that -- with regard to that,
15 sir?

16 A Specifically, on the Acer, I found that he went to a
17 website called Anarchist Cookbook and accessed a web page,
18 specifically, a collection of pipe bombs.

19 He also accessed many other web sites that had information
20 on how to make pipe bombs.

21 He did YouTube searches on how to forge a check, how to
22 make a pipe bomb that explodes, how to make a fire explosion,
23 how to make a detonator, pipe boom, and homemade bomb.

24 He did Google search strings for how to make a pipe bomb,
25 how to make a pipe bomb black powder, how to make a fire

SENTENCING - SEPTEMBER 27, 2013
L. McEUN/DI - OHMS

1 explosion pipe bomb, dynamite, dynamite wiki, ABS pipe bomb
2 wiki, dynamite cutaway.

3 Q Okay. Let me -- let me stop you just for a moment because
4 you're reading through a list. I'm wondering, did you compile
5 an exhibit?

6 A I did.

7 Q All right. And is that the first page of your exhibit for
8 use today? Government --

9 A Yes, sir.

10 Q That's Government's Exhibit 13 for the record.

11 A Yes, sir.

12 Q All right. And I believe that you were just referencing
13 Google search strings, which I've pointed to on the exhibit.
14 Are those the search strings that you've just described?

15 A Yes, sir.

16 Q All right. Go ahead and continue your explanation or
17 description of what you -- what you found.

18 A Certainly.

19 MR. FISCHER: Your Honor, I think the exhibit speaks
20 for itself unless there's going to be --

21 THE COURT: Well, we can shorten it up. I've read it.
22 Go ahead.

23 Q (BY MR. OHMS) Okay. Well, let me just get into some
24 categories.

25 A Yes, sir.

SENTENCING - SEPTEMBER 27, 2013
L. McEUN/DI - OHMS

1 Q Did you find evidence that he was conducting searches
2 related to various weapons, not just bombs?

3 A Yes.

4 Q Okay. Did you find evidence that he was conducting
5 Internet searches related to the creation of a fake passport?

6 A On the other computer, I did, yes.

7 Q Okay. Did you find evidence that he was conducting
8 Internet searches concerning law enforcement techniques?

9 A Yes.

10 Q Specifically, law enforcement techniques in finding a
11 fugitive?

12 A Yes, on the other computer.

13 Q Did you find evidence that he had conducted Internet
14 searches related to specific law enforcement officers?

15 A Yes.

16 Q Did you find evidence that he'd conducted Internet searches
17 related to specific personnel within the Idaho Department of
18 Corrections?

19 A Yes.

20 Q Did that include his then-probation/parole officer -- I
21 believe it's Marla Howard?

22 A Yes.

23 Q And did you take any action once you observed that?

24 A Yes.

25 Q What action did you take?

SENTENCING - SEPTEMBER 27, 2013
L. McEUN/DI - OHMS

1 A I notified her that, based on the search strings, that I
2 thought he may be targeting her. I called her and notified her
3 of the possible threat against her.

4 Q Finally, sir, I'm showing you Exhibit 14. This has been
5 admitted to the Court -- or been provided to the Court,
6 previously, through different pleadings; but would you just
7 identify it for the record for us, please.

8 A That is letters that I obtained from Cesley written by
9 Mr. Pauckert.

10 Q And did you review the letters?

11 A I did.

12 Q And this specific letter has June 13 written at the top.
13 Is that correct?

14 A Correct.

15 Q And did you find any items of interest in the letter?

16 A I did.

17 Q And what was that?

18 A This, as well as other letters, appeared to be Pauckert
19 trying to get the witness to say things that weren't true.

20 MR. FISCHER: Well, I'm objecting to the opinion.

21 THE COURT: Sustained. He can tell me what it says,
22 but --

23 MR. OHMS: Okay.

24 THE COURT: -- not what he thinks it says.

25 Q (BY MR. OHMS) Since they're of record, we can read them

SENTENCING - SEPTEMBER 27, 2013
L. McEUN/CR - FISCHER

1 for ourselves. I think we'll just -- you know, we'll end up
2 arguing about what those things mean. But I think what's in the
3 letter is of record.

4 But just so we have it identified and know where it came
5 from, what is -- I've put up on the screen Exhibit 15. What is
6 that?

7 A That's another letter written by Mr. Pauckert obtained from
8 Cesley Dodge.

9 Q Okay. Did you obtain both of these letters?

10 A I did.

11 Q And, for the record, how did you obtain them?

12 A I obtained them from Ms. Dodge. I should add that the
13 letters were contained in jail mail envelopes with stamps and
14 return addresses as required by the Spokane County Jail.

15 MR. OHMS: Okay. Your Honor, I have no further
16 questions of this witness.

17 (Discussion off the record)

18

19 CROSS EXAMINATION

20 CROSS BY MR. FISCHER:

21 Q Good morning, Agent.

22 A Good morning, sir.

23 Q You and I've talked before.

24 A Yes, sir.

25 Q We looked at the bomb together, as a matter of fact.

SENTENCING - SEPTEMBER 27, 2013
L. McEUN/CR - FISCHER

1 Right?

2 A Yes.

3 Q Okay. So, I'm going to go over a few things of what
4 we're talk -- we talked about today.

5 First of all, May 23rd, 2012, you located the explosive
6 device. You, personally, looked at it and examined it.

7 Correct?

8 A Correct.

9 Q Okay. And did you have assistance of Spokane Police Bomb
10 Squad?

11 A Yes, I did.

12 Q Okay. And, when you made a report, did they concur in your
13 findings?

14 A I don't believe there was a findings in their report.

15 Q About -- about the bomb or --

16 A That it was a bomb and, basically, how it functioned. I'm
17 sure they did.

18 Q All right. I'm just going to go through some of this
19 stuff. You said it's, basically, a remote control pipe bomb
20 with shrapnel, 75 pieces attached.

21 A Correct.

22 Q And, then, there were components. And, then, you -- I'm
23 going to show you the Government's Exhibit No. 2. And I wrote
24 on there what you said. So -- but I just want to go over this.
25 You also indicated that you dismantled, disarmed bombs?

SENTENCING - SEPTEMBER 27, 2013
L. McEUEEN/CR - FISCHER

1 A Yes.

2 Q That's your job?

3 A Yes, sir.

4 Q And render them safe.

5 A Correct.

6 Q Okay. Now, when you found -- or you -- did you x-ray the
7 case?

8 A I did not personally, no.

9 Q Okay. But you -- did you examine the x-ray before you
10 opened the case?

11 A Yes.

12 Q Okay. And -- and, so, when you look at this, you said it
13 had components and -- but this piece is not armed and ready to
14 go, is it? The bomb you're looking at is not armed and ready to
15 go.

16 A It -- based -- I mean, did we know that at the time that we
17 did the x-ray?

18 Q No. No. I'm just asking. This bomb right here
19 (indicating), or what is a part of the bomb, is not armed and
20 ready to go when you found it. Correct?

21 A Correct.

22 Q Okay. So, you didn't have to disarm this.

23 A Yes, we did. The -- the problem with an x-ray is you --

24 Q No. No. No. Let me ask you: Did you have to disarm this
25 piece as it stood?

SENTENCING - SEPTEMBER 27, 2013
L. McEUEEN/CR - FISCHER

1 A Yes.

2 Q Okay. And how would you disarm it?

3 A First of all, we had to remove it from the packaging that
4 it was in.

5 Q Okay.

6 A And, then, secondly, we cut off the end because it was ABS
7 pipe. That was the easiest way to disarm it without destroying
8 all the evidence.

9 Q Sure. Okay. But, if it's not ready to go as constructed
10 right here, right as it stands, it doesn't need to be disarmed.
11 Right?

12 A You're assuming that we knew that it was --

13 Q No. I'm just asking a question.

14 A And the answer is, yes, you do have to disarm it because we
15 could not tell that it was not a fully functioning bomb as that
16 x-ray discloses.

17 Q Well, isn't it missing something here?

18 A The nichrome wire that could have been between those two
19 wires there (indicating) --

20 Q Yeah.

21 A -- is so thin it would not show up on an x-ray. And, so,
22 it could have been filled with powder and it could have had a
23 nichrome wire. So, at the time, it could have been a fully
24 armed bomb.

25 Q Okay. So -- so, this would have shown or not shown that it

SENTENCING - SEPTEMBER 27, 2013
L. McEUN/CR - FISCHER

1 was -- had Pyrodex in it?

2 A If it was full, you would not be able to tell the
3 difference in the density. If it was half full, most of the
4 time we can tell that there's some density difference. But, on
5 an x-ray, the Pyrodex powder -- if it's -- the bomb is full, you
6 would not be able to tell that it did not have powder.

7 Q Okay. So, when you opened it up, you found no powder in it
8 except residue. Correct?

9 A Correct.

10 Q So, that means that at least somebody or Mr. Pauckert had
11 to have put Pyrodex in there and taken it out.

12 A Correct.

13 Q Okay. So, it was, at some point in time, maybe
14 activatable; but it was disarmed by him because there's no
15 Pyrodex in it. Correct?

16 A It was unarmed at the time. Correct.

17 Q All right. So -- and somebody would have to do that.

18 A Yes.

19 Q You guys didn't.

20 A No.

21 Q Okay. So, somebody would have had to disarm this and
22 not -- and taken the Pyrodex out of it because you found Pyrodex
23 in it. A little.

24 A I would -- I would assume that someone had -- had poured
25 some in it at some time, yes.

SENTENCING - SEPTEMBER 27, 2013
L. McEUN/CR - FISCHER

1 Q Pyrodex.

2 A Yes.

3 Q Because you found Pyrodex in it.

4 A Yes.

5 Q Okay. Now, the doorbell -- that wasn't attached. Correct?

6 A Was not --

7 (Interruption by the reporter)

8 MR. FISCHER: Sure. I'm sorry.

9 Q (BY MR. FISCHER) The doorbell was not attached. Correct?

10 A The doorbell receiver was attached.

11 Q The doorbell receiver, but the doorbell to activate it was
12 not attached. Correct?

13 A Yes, you're right.

14 Q Okay. And, also, the light bulbs, which would be the
15 initiator?

16 A Yes.

17 Q They were found separate and apart from this bomb.
18 Correct?

19 A Yes. Next to the doorbell switch.

20 Q Okay. Thanks. Now, this shrapnel you -- you indicated
21 shrapnel, the screws and bolts. Bolts?

22 A Nails, I believe.

23 Q Nails. And there was nothing -- did you check these for
24 toxins? Anything toxic on there?

25 A I did not find anything that appeared to be toxic to me.

SENTENCING - SEPTEMBER 27, 2013
L. McEUN/CR - FISCHER

1 Q Okay. So, you checked and didn't find anything.

2 A Correct.

3 Q Okay. And, now, we're talking about a directional pipe
4 bomb.

5 A Correct.

6 Q Okay. And you were talking about Exhibit No. --

7 MR. FISCHER: Oh, I'm sorry, your Honor. For -- for
8 the -- for our purposes, I was just discussing Exhibit No. 2.
9 Government's Exhibit No. 2. And I'm moving on to Exhibit No. 4.

10 Q (BY MR. FISCHER) You were talking about design and
11 function of this scouring of the bomb. Correct?

12 A Yes.

13 Q Okay. And I think you indicated that you were -- you
14 testified that it was designed to be more intended to function
15 at a specific -- specific event or location.

16 A That's consistent with command detonated explosives, yes.

17 Q Okay. Command detonated explosives means you want to be as
18 far away from that as possible if and when it goes off.

19 A According to the lab, it could be functioned up to
20 240 meters away.

21 Q So, you want to be as far away from that as possible,
22 correct, when it goes off?

23 A Unless you're a suicide bomber, yes.

24 Q Right. Okay. So -- but that's how it's designed, to be
25 away from it.

SENTENCING - SEPTEMBER 27, 2013
L. McEUN/CR - FISCHER

1 A Correct.

2 Q Okay. Now -- and you said, "event or person." However, it
3 could be intended for other things, as well. Correct?

4 A Such as?

5 Q Well, let's say I want to make a pipe bomb. I just want to
6 fool around. I want to see what it does. So, I'm going to make
7 it directional; and I'm going to put up a -- oh, I'm going to
8 put a watermelon in front it --

9 A Okay.

10 Q -- about 20 feet away to see what it does to that
11 watermelon.

12 A Yes, sir.

13 Q So, I stand back 240 meters, let her go, and see if it
14 happens.

15 A Okay.

16 Q What's it going to do to that watermelon?

17 A Destroy the watermelon.

18 Q Okay. So, it's got another reason for it.

19 A The bomb that you're talking about in your hypothetical is
20 more consistent -- you wouldn't need such a sophisticated firing
21 device. You could have just lit a fuse. It could have been
22 used in your hypothetical, but it's inconsistent with the amount
23 of time and effort it would make -- it would take to make such a
24 sophisticated device.

25 Q Well, what if I'm just -- I just want to spend the time and

SENTENCING - SEPTEMBER 27, 2013
L. McEUN/CR - FISCHER

1 -- and the effort? I want to see if this thing will really
2 destroy a watermelon.

3 A I have no experience with that type of device.

4 Q Okay. What you're experienced in is disarming devices that
5 you find that somehow have been designed and you know the design
6 purpose. Correct?

7 A You can tell the purpose from the design, yes.

8 Q Okay. But this has -- and what I'm getting at is this --
9 the purpose of this bomb could be other than an event or person
10 device.

11 A It would be inconsistent, but it could be used for
12 something else.

13 Q Okay. Thanks. Now, I think we'll move to Exhibit No. 6.
14 And let's -- let's just go over this briefly. You indicated --
15 you're familiar with weapons being an agent.

16 A Correct.

17 Q And did you examine this weapon that is -- a photograph of
18 which is Exhibit No. 6?

19 A Yes, I did.

20 Q Okay. And what is that?

21 A That is a six-shot revolver, .38 caliber.

22 Q Is it a Smith and Wesson?

23 A I believe so.

24 Q And a .38 Special I think they have -- they call it.

25 A Yes.

SENTENCING - SEPTEMBER 27, 2013
L. McEUN/CR - FISCHER

1 Q Okay. And, actually, this was a -- there was paperwork
2 found in Mr. Pauckert's personal belongings of -- that this was
3 manufactured in 1905. Correct?

4 A I believe it was traced back to the Navy, yes.

5 Q To the Navy. Okay. And that's what some people would call
6 a vintage firearm. Correct?

7 A I -- Okay.

8 Q All right. Now, when -- when you examined this, had you
9 seen that it had been fired recently?

10 A I did not examine it for whether it had been fired.

11 Q Okay. And you did find paperwork of its -- of the -- the
12 .38 Special's pedigree. Correct?

13 A Yes.

14 Q Okay.

15 A Oh, wait. I'm sorry.

16 Q The pedigree of the firearm.

17 A We did an ATF trace on it, and it came back to the Navy.
18 The paperwork for its pedigree? Like, who bought it and what
19 name they used? Yes, we did find that in his personal property.

20 Q Okay. You also found a receipt, a bill of sale. Correct?

21 A Correct.

22 Q And the receipt, the bill of sale, was made out to Tyson
23 Dodge?

24 A No. One of them was made out to Miguel Dodge, which is an
25 aka of Mr. Pauckert. There was another receipt for Tyson Dodge,

SENTENCING - SEPTEMBER 27, 2013
L. McEUN/CR - FISCHER

1 yes.

2 Q Okay. Well, let's see what we're -- well, let me get
3 through this. Let's get to Exhibit No. 7. You refer to this, I
4 believe, as a rape kit.

5 A There were two kits. This one would be consistent with it
6 but combined is what they would be, yes. It's the best --

7 Q Oh, both of them combined would be a rape kit.

8 A Yes. They both had parts that are consistent with what
9 I've talked to other people about what they would use in their
10 crimes.

11 Q What other people?

12 A Other pedophiles that have been involved in sex crimes.

13 Q You talked to other pedophiles about what you found?

14 A In this kit? No. No, in their own. It's a -- the rape
15 kit is a -- is a gross overview of what was found.

16 Q "A gross overview." Speculation.

17 A What would you call it?

18 Q I'd call it a bag with stuff in it. But let's go through
19 this.

20 A Okay.

21 Q It's got a condom in it?

22 A Two of them, yes.

23 Q Okay. And -- and do rapists usually use -- wear condoms?

24 A Yes, they do.

25 Q Oh. He had a girlfriend, didn't he?

SENTENCING - SEPTEMBER 27, 2013
L. McEUN/CR - FISCHER

1 A Yes, he did.

2 Q Cesley Dodge?

3 A Yes.

4 Q Okay. Do you know if they used condoms in their love
5 making?

6 A I know she was pregnant so I doubt it.

7 Q But you don't know that.

8 A Well, she was pregnant with his child.

9 Q Right. But you don't know whether they used condoms or
10 not.

11 A At least once they didn't.

12 Q Okay. Or something happened to the condom.

13 A I don't know.

14 Q Okay. And, then, you've got a flashlight. And, now, over
15 here (indicating) in this paperwork you've got a buyer's guide.

16 A I believe that was for his car.

17 Q His car. And, then, you have a Costco bill to the right
18 here (indicating).

19 A Correct.

20 Q And what does that have to do with a rape kit?

21 A Nothing.

22 Q Okay. And, then -- and, then, it looks like there's a
23 magazine there.

24 A Correct.

25 Q .38 Special?

SENTENCING - SEPTEMBER 27, 2013
L. McEUN/CR - FISCHER

1 A No.

2 Q .40 mag?

3 A I believe that was to the fake gun.

4 Q To the BB gun.

5 A Correct.

6 Q Okay. And these gloves -- you say they -- they -- when
7 applying chemicals, people wear these gloves. Right?

8 A It's a nitrile glove. It is specifically designed for
9 chemical use, but it has other uses.

10 Q Sure. So, it -- let's say you're gluing two pipes together
11 and you don't want to get the glue on your hands because you're
12 a clean plumber --

13 A You would use nitrile gloves, yes.

14 Q Okay. All right. And, then -- well, you know,
15 Mr. Pauckert did plumbing work?

16 A Yes.

17 Q Okay. And, then, we go to No. -- Exhibit No. 8. And this
18 is the other part of the tandem rape kit you describe. Now, it
19 also has a flashlight like the other kit. Right?

20 A Correct.

21 Q And, then, you have ties used for handcuffing.

22 A Correct.

23 Q Okay. But they're also used in the construction trade,
24 aren't they?

25 A I've never seen them in this format where they're

SENTENCING - SEPTEMBER 27, 2013
L. McEUEEN/CR - FISCHER

1 interlocked. They're used singularly in the -- in the trades
2 that I know of.

3 Q When you say, "interlocked," like this down here at the
4 bottom (indicating), 8?

5 A Yes. There's two sets that are interlocked just like the
6 police would use for handcuffing.

7 Q Sure. Are you a plumber?

8 A I am not.

9 Q Do any plumbing on your own?

10 A Yes.

11 Q Okay. And -- but you've never had an opportunity to use
12 these in connection with your plumbing?

13 A Not in that format, no.

14 Q Okay. But you have used them.

15 A Yes. Bought ties, yes.

16 Q Okay. All Right. Now, also, over here (indicating),
17 you've got some plumbing tape, don't you? Or is that adhesive
18 tape?

19 A That's adhesive. I think it's first aid tape.

20 Q First aid tape. Okay. And, then, over here (indicating),
21 you have what appear to be multicolored pens.

22 A Correct.

23 Q And do you know if they belong to Mr. Pauckert or McKenzie,
24 the child that -- of Cesley Dodge?

25 A I do not know.

SENTENCING - SEPTEMBER 27, 2013
L. McEUEEN/CR - FISCHER

1 Q Okay. And over here (indicating) you have a poncho?

2 A Correct.

3 Q Okay. So, if one wanted to go outside and go for a trip in
4 the back country, they may use a map and a poncho, too.

5 A Correct.

6 Q Okay. Now, Exhibit No. 10 is the false identification kit.

7 A Correct.

8 Q Okay. And did you retrieve this from the house during your
9 search or did this -- was this retrieved by the police?

10 A This was retrieved by me.

11 Q By you.

12 A Yes.

13 Q Okay. And you also found some printers around. Correct?

14 A Correct.

15 Q And you didn't seize those printers.

16 A Correct.

17 Q Because this is really all you needed.

18 A To do what?

19 Q To, perhaps, charge Mr. Pauckert with a false
20 identification making device?

21 A I don't know what the specifics of the law is. I took --

22 Q Well, why did you take this?

23 (Interruption by the reporter)

24 MR. FISCHER: Okay. Sorry.

25 (Interruption by the reporter)

SENTENCING - SEPTEMBER 27, 2013
L. McEUN/CR - FISCHER

1 THE WITNESS: What the specifics of the -- to prove
2 false identification. If I needed just the kit or if I needed
3 the printers, as well. I didn't think the printers were
4 necessary evidence.

5 Q (BY MR. FISCHER) Okay. Okay. Good. Now, let's talk
6 about client's computers or -- or the computers that you found
7 in the house. How many computers did you find in the house?

8 A Three.

9 Q And do you know that they were accessed only by
10 Mr. Pauckert?

11 A According to the witness statements, the Acer was only use
12 by Mr. Pauckert. The HP computer was used by Mr. Pauckert who
13 had his own log on and Cesley Dodge. And, then, there was a
14 third computer used by Mr. Pauckert and the boys.

15 Q And the boys. The boys. When you say, "the boys," you're
16 talking about Cesley Dodge's two teenage brothers.

17 A Correct.

18 Q And, when you looked at one of the computers -- I think it
19 was the Acer?

20 A Yes.

21 Q -- you found -- you said you found pornography?

22 A That was on the HP computer.

23 Q Which was accessible by who?

24 A Cesley Dodge and Mr. Pauckert.

25 Q Okay. And the -- now, here's the interesting thing is what

SENTENCING - SEPTEMBER 27, 2013
L. McEUN/CR - FISCHER

1 I want to talk to you about. Pedobear. You said you found
2 Pedobear.

3 A Correct.

4 Q In a search format?

5 A No. No. Just the graphic image.

6 Q A graphic image. Can you explain that to the Court?

7 A When you search computers, there's different ways of doing
8 it. One is you search for graphic images, such as, pictures and
9 images, and during that search is when Pedobear appeared on the
10 HP computer.

11 Q Okay. But you found no child pornography on the computer.

12 A Correct.

13 Q And you -- you know about computers. Correct?

14 A Yes, sir.

15 Q And you -- you indicated that, well, certain images could
16 have been wiped.

17 A Wiped or never downloaded on the machine itself. Correct.

18 Q Or never downloaded.

19 A The image -- for a computer to retain an image, it has to
20 go into the hard drive. There are certain images that never go
21 onto the hard drive.

22 Q Sure. And there's certain images that can be wiped.

23 A Correct.

24 Q But you would find, in your configuration of that hard
25 drive, information about wiping, wouldn't you?

SENTENCING - SEPTEMBER 27, 2013
L. McEUEEN/CR - FISCHER

1 A It's not -- the -- some of the wiping software deletes
2 itself. So, you have to look for when the next -- the last time
3 the computer was reformatted. There's several other aspects to
4 observing whether wiping software was used.

5 Q Okay. Did you look for that?

6 A No, I did not.

7 Q Okay. So, you really didn't find any child pornography on
8 any computers. Correct?

9 A Correct.

10 Q Now, you were concerned about finding -- I'm going to refer
11 to Exhibit No. 12. And I think you testified that it was a
12 non-gaming ID.

13 A Correct.

14 Q Okay. Actually, these are work cards, aren't they, for Las
15 Vegas?

16 A That's what I found out, yes.

17 Q Okay. So -- so, you got to have one of these cards in
18 order to work in a casino, a strip club, or something like that.

19 A Any restricted employment, yes.

20 Q Okay. They're not going to get you into any high security
21 police department areas. Correct?

22 A Correct.

23 Q Okay. In fact, it says, "Non-Gaming" on them. Right?

24 A Correct.

25 Q Okay. And you don't know who this individual is?

SENTENCING - SEPTEMBER 27, 2013
L. McEUEEN/CR - FISCHER

1 A I do not.

2 Q Okay. Do you know if Mr. Pauckert -- did you ask
3 Mr. Pauckert who this individual was?

4 A No, I did not.

5 Q Okay. Do you know if Mr. Pauckert was making money by --
6 or wanted to make money by making false IDs?

7 A Yes.

8 Q Okay. And, certainly, that's not his photo.

9 A I don't believe so.

10 Q And you never found any photos of him in connection with
11 these kits?

12 A Yes, I did.

13 Q Okay. Well, why don't you explain that to the Court.

14 A On the computer, I found templates for fake IDs as well as
15 a search string for fake passports, fake checks, you know, the
16 usual -- not the usual. And the photos have specific
17 backgrounds to them, color. Like, in this one, it's -- it
18 looks like an off blue or gray on it. And, so, there were
19 pictures of Mr. Pauckert with the same type of backgrounds on it
20 with the same chest to top-of-the-head shot, as well.

21 Q Okay. But they were not embedded in any passport.

22 A I did not find any completed ones. Just the templates and
23 the parts of them for Mr. Pauckert.

24 Q Okay. So, the templates are separate and apart from the
25 photographs.

SENTENCING - SEPTEMBER 27, 2013
L. McEUN/CR - FISCHER

1 A Correct.

2 Q Okay. Now, search strings. Exhibit No. 13 is the face
3 sheet. And, then, Page 2, I think, we're discussing Google
4 searches, search strings, et cetera, to -- how to make pipe
5 bombs, et cetera.

6 A Correct.

7 Q And, then, the Page 3 is search strings that include
8 searches for information about guns, firearms, and, then, it
9 starts also searching for names. Christine Jensen?

10 A Correct.

11 Q Who's that? Do you know?

12 A She's the head of the Idaho Department of Corrections,
13 Fugitive Apprehension Team.

14 Q Okay. And Mr. Pauckert, at the time, was a fugitive from
15 Idaho Department of Corrections. Right?

16 A Yes.

17 Q Okay. And, then, it says, "Coeur d'Alene Marshals." And,
18 then, it has an address there on Mineral Drive. You know that
19 to be the -- the U.S. Marshal Department. Correct?

20 A Yes.

21 Q Okay. And David Harlow? He's a U.S. Marshal. Is that --
22 is that true?

23 A I don't know if he personally is. It says it is in the
24 search string, I think.

25 Q Okay. And it's -- it's also got information about --

SENTENCING - SEPTEMBER 27, 2013
L. McEUN/CR - FISCHER

1 there's other information that he was looking for, like, whether
2 marshals look for parole violators. Correct?

3 A Correct.

4 Q And, then, it has David Bennett, Sheriff. Do you know who
5 that is?

6 A I do not.

7 Q Do you know who Ron Coleman is?

8 A I do not.

9 Q So, you wouldn't know if Ron Coleman's a black bodybuilder.

10 A I -- when I Googled that, personally --

11 Q Oh, okay.

12 A -- Ron Coleman did show up on the Internet as a bodybuilder
13 from Las Vegas but not from Spokane.

14 Q Right. A black bodybuilder?

15 A Correct.

16 Q And -- and you don't know of an Officer Ron Coleman in
17 Spokane Police Department or Spokane Sheriff's Department?

18 A I do not.

19 Q And -- and, then, you indicated that you had called Idaho
20 Probation Officer Marla --

21 A Howard.

22 Q -- Howard. And you indicated that you were concerned that
23 she may be a target?

24 A Yes.

25 Q Okay. And did she tell you that she had received any

SENTENCING - SEPTEMBER 27, 2013
L. McEUN/CR - FISCHER

1 threats from Mr. Pauckert?

2 A No.

3 Q And she didn't -- she told you that, basically, she was
4 looking for Mr. Pauckert. Correct?

5 A Yes.

6 Q Okay. And -- but she had no idea where he was?

7 A Correct.

8 Q No communication with Mr. Pauckert. She wanted to get him
9 back into her system. Correct?

10 A Well, I -- I told her that he was under arrest.

11 Q Right. Okay. Now, I'm going to finalize this with some
12 letters. And, interestingly, I -- these are Government Exhibits
13 No. 14 -- well, they're 14, 15 -- Government's Exhibits No. 14
14 and 15. And they consist of a few pages in each one. So, in --
15 in your report, did you review a report by -- well, actually,
16 this is a report by you done on 12/17/2012, where you provided
17 information in -- in your investigation about Pauckert witness
18 tampering. And I wrote on this, but I'm going to ask you if you
19 recognize that without the writing. Is that your name there?

20 A Yes, that's my report.

21 Q Okay. So, you indicated, on -- on 6/8/2012, says, "Just
22 minimize everything to the judge." These are letters coming --
23 that Ms. Cesley Dodge gave you that came from Mr. Pauckert while
24 he was in jail. Correct?

25 A Correct.

SENTENCING - SEPTEMBER 27, 2013
L. McEuen/CR - FISCHER

1 Q Okay. And did you know or were you advised that they were
2 also talking by phone and seeing each other in face-to-face
3 communications during this time?

4 A I don't remember.

5 Q But the letters would indicate that, wouldn't they?

6 A That they were having face-to-face conversations?

7 Q Yes and phone conversations. They're not just
8 communicating by letter.

9 A I believe there's -- there's comments about phone
10 conversations, and there may have been something about
11 visitation in them.

12 Q Okay.

13 A But it's been a while.

14 Q So, these letters are not a complete set of their
15 conversations with each other.

16 A Correct.

17 Q Okay. So, it says, "Just minimize everything to the judge"
18 in the 6/8/2012 letter.

19 A Correct.

20 Q And -- and you took that from --

21 MR. FISCHER: Excuse me, your Honor. I'm having a
22 hard time. These were provided in discovery. And I'm looking
23 for the dates so that they can coincide with -- well, Judge,
24 I -- I provided Defense Exhibit No. D-201. And these are --
25 consists of three pages of Agent McEuen's report, and the

SENTENCING - SEPTEMBER 27, 2013
L. McEuen/CR - FISCHER

1 attached letters that I received in United States v. Pauckert
2 Bates No. 0485 through 495. So, they are, basically, the same,
3 or consist of some of the same, letters that the Government was
4 using; but I'd rather use these because I'm more familiar, your
5 Honor.

6 THE COURT: I have your exhibit in front of me, and
7 I'm familiar with it. I've read it. The confusion is the
8 Government marks them based on the postmarked date, and you've
9 supplied them with a date that's handwritten on the letters.

10 MR. FISCHER: Oh, I see. Okay. All right. Well --

11 THE COURT: Do you want me to correlate them for you?

12 MR. FISCHER: From the -- from the Government's?

13 THE COURT: Well, the Government's is summarized by
14 Agent McEuen's report.

15 MR. FISCHER: Correct. So -- and that's where I'm --
16 I'm having a problem. As a matter of fact --

17 THE COURT: Discovery Document Page 486 is the letter
18 dated June 13th.

19 MR. FISCHER: I have that.

20 THE COURT: That's referenced as postmarked, I
21 believe, June 14th, the second entry on Agent McEuen's report.

22 MR. FISCHER: I have that, yes. Okay. And I don't --
23 these -- the rest of the Government's letters don't correlate
24 with what I received in discovery. So, I'm just going to go
25 through what I got in discovery, your Honor, and ask Mr. -- or

SENTENCING - SEPTEMBER 27, 2013
L. McEuen/CR - FISCHER

1 Agent McEuen just a couple of questions.

2 Q (BY MR. FISCHER) You -- you reviewed some of the
3 letters -- the letters that Ms. Dodge provided you that were
4 sent to her by Mr. Pauckert and came to some conclusions. For
5 example, Pauckert witness tampering, Page 1 of your report,
6 criminal activity and fugitive activity. But these -- let's go
7 through the first one.

8 You pull out a piece that says, "Just minimize everything
9 to the judge, all the evidence, say I'm a friend whom you didn't
10 know who was on the run." You provide the rest of the -- the
11 rest of that paragraph. And that is in a letter right here
12 (indicating), Page 45, it says, "Just minimize everything to the
13 judge." Correct?

14 A If you're referring to -- yes, I understand what you're
15 referring to.

16 Q You see that? That's -- that's -- that's the excerpt
17 you're taking everything from. Right? Correct?

18 A I'm sorry. I don't under the question.

19 Q This is the excerpt from the letter that you're summarizing
20 in your report, verbatim, "Just minimize everything to the
21 judge"?

22 A Yes.

23 Q Okay. "Say I'm a friend," et cetera. It goes down through
24 and -- and ends with this paragraph here (indicating).

25 A Yes.

SENTENCING - SEPTEMBER 27, 2013
L. McEUN/CR - FISCHER

1 Q Okay. But the rest of the letter goes on to say, "All my
2 statements can be credited (sic)" -- "can be discredited because
3 I'm a criminal." So, they say, even in the report,
4 "Mr. Pauckert said you were dating. Say Mr. Pauckert is also a
5 liar and a criminal. I don't see the judge punishing you for
6 wondering -- for something you didn't do -- that you didn't
7 know. And, when you found out, you did the right thing."

8 Now, you're assuming that the judge is the Court sitting
9 here today. Correct?

10 A No.

11 Q Who are you assuming that is?

12 A She was having custody issues with -- I believe they call
13 her Mack, her one-year-old that Mr. Pauckert was living with --
14 which would cause Mack to have some issues of being with her
15 mom.

16 Q Okay.

17 A But it says, "Judge" -- and my title was "Witness
18 Tampering" -- "this is inconsistent with her statements to
19 myself and other agents/investigators." So, he's telling her to
20 say to a judge something that's not true.

21 Q This is not relevant to this investigation.

22 A Sure it is. Perjury?

23 Q Well, to this investigation.

24 A Yes, it is.

25 Q Your investigation.

SENTENCING - SEPTEMBER 27, 2013
L. McEUN/CR - FISCHER

1 A Yes. I have a person that's telling a witness to lie to a
2 judge.

3 Q Does it say, "Tell" -- "Lie to him"?

4 A Yeah, that's my interpretation of that paragraph.

5 Q That's your interpretation. Okay. Thank you. Now,
6 then -- so, all these references to the judge have something to
7 do with her custody battle between her and her ex-husband or
8 ex-boyfriend, Brad. Correct?

9 A No. If you read the letters, some of them appear to be, in
10 my opinion, to the custody. Some of them deal with this
11 specific Court.

12 Q Okay. Why don't you point out what deals with this
13 specific Court.

14 A On June 14th, postmarked, he says, "By the way, that thing
15 is legally in Tyson's name. So, if he wants" --

16 Q No, we're talking about a judge. We're talking about
17 intimidating a witness to lie to a judge.

18 A I think the letters speak for themselves.

19 Q Okay. All right. And I think you're correct. So, this is
20 the excerpts that you're pulling out of for witness tampering.

21 A That specific title, yes.

22 Q All right.

23 A And there are others for criminal activity and violation of
24 parole and others.

25 Q All right. Okay.

SENTENCING - SEPTEMBER 27, 2013
L. McEUEEN/REDI - OHMS

1 MR. FISCHER: May I have a minute, your Honor?

2 THE COURT: Yes.

3 (Discussion off the record)

4 MR. FISCHER: Thank you, Agent.

5 THE WITNESS: Yes, sir.

6 MR. FISCHER: Thank you, your Honor.

7 THE COURT: Mr. Ohms, do you have another witness; or
8 are you done with this one?

9 MR. OHMS: I just had a couple of follow-up questions
10 just to clarify the record.

11 THE COURT: All right. Just briefly.

12

13 REDIRECT EXAMINATION

14 REDIRECT BY MR. OHMS:

15 Q I just want to clarify a couple of things. You were asked
16 by Mr. Fischer whether the doorbell was attached to the
17 explosive device, and you indicated that it was not. As this
18 device is designed to function, based upon your observations,
19 should the doorbell be attached to the device?

20 A The doorbell trigger should not be attached to the device
21 unless it's a suicide device.

22 Q All right. Also, sir, you were asked: Do you know whether
23 the defendant wanted to make money off of fake identifications?
24 And you answered "Yes." Why did you answer "Yes" to that
25 question?

SENTENCING - SEPTEMBER 27, 2013
L. McEUN/REDI - OHMS

1 A He had told -- or Cesley Dodge reported that he was making
2 money off of selling fake Washington identifications.

3 Q All right. And, finally, sir, you were asked a series of
4 questions about using the explosive device that you examined in
5 this case for destroying a watermelon. And you indicated that
6 you had no experience with that type of device. And I just -- I
7 wasn't clear on what -- what you meant by that.

8 A This sophisticated type of device would -- I've never seen
9 it used to destroy inanimate objects. This is a -- this is a
10 command detonated. It's designed to be actuated when a specific
11 item or person is in the area.

12 MR. OHMS: All right. No further questions, your
13 Honor.

14 MR. FISCHER: Nothing further, your Honor.

15 THE COURT: I have one follow-up question. Are you
16 familiar with the firearm in this case? The .38 caliber?

17 THE WITNESS: Yes, sir.

18 THE COURT: It's a Model 1905. Does that make it --
19 does that necessarily mean it was manufactured in 1905?

20 THE WITNESS: No, your Honor. I believe it was
21 manufactured during World War II.

22 THE COURT: And, in fact, the record shows the trace
23 went back to 1944. Is that correct?

24 THE WITNESS: That would be consistent, yes, your
25 Honor.

SENTENCING - SEPTEMBER 27, 2013
M. HOWARD/DI - OHMS

1 THE COURT: All right. Any other questions concerning
2 that?

3 MR. OHMS: No, your Honor.

4 THE COURT: All right. You can step down.

5 THE WITNESS: Thank you, your Honor.

6 MR. OHMS: The Government calls Marla Howard.

7 (Witness enters courtroom)

8 THE COURT: Ms. Howard, please come forward and raise
9 your right hand. You'll be sworn by the clerk.

10 (MARLA HOWARD, called by the Plaintiff, was sworn)

11 THE COURTROOM DEPUTY: Have a seat, please.

12 THE COURT: Please be seated. Adjust the microphone.
13 State your full and last name for the record and spell your
14 last.

15 THE WITNESS: It's Marla Howard, H O W A R D.

16 THE COURT: Thank you.

17

18 DIRECT EXAMINATION

19 DIRECT BY MR. OHMS:

20 Q Ma'am, how are you employed?

21 A I work for the Idaho Department of Corrections Probation
22 and Parole, and I work specifically with a caseload of people
23 who have sex offenses.

24 Q All right. What are your official responsibilities on a
25 day-to-day basis?

SENTENCING - SEPTEMBER 27, 2013
M. HOWARD/DI - OHMS

1 A I supervisor probation and parolees who are in the
2 community who have been convicted of a sex crime.

3 Q And do those persons typically have conditions placed on
4 them by the Court?

5 A They have conditions placed on them by the parole
6 commission. And, then, they have conditions placed on them by
7 our department policy.

8 Q And what is your responsibility with regard to those
9 conditions?

10 A Is to make sure that they comply with those conditions.

11 Q And how long have you been employed in that capacity,
12 ma'am?

13 A I've been employed with the Idaho Department of Corrections
14 for seven years. And, previous to that, I was three-and-a-half
15 years working in Wyoming, same Department of Correction.

16 Q All right. In the same type of position?

17 A Yes.

18 Q Now, as part of your official responsibilities, did you
19 have responsibility for supervising the defendant in this case?

20 A I did.

21 Q And how did that come about, ma'am?

22 A Michael Pauckert was released sometime around, I want to
23 say, the end of 2008; and he was assigned to my caseload due to
24 his sex crimes.

25 Q And what was his underlying conviction?

SENTENCING - SEPTEMBER 27, 2013
M. HOWARD/DI - OHMS

1 A He had two statutory rapes and a lewd conduct with a minor
2 under the age of 16 in Idaho. And, then, he also did an
3 interstate compact from Montana with, I believe, some burglary
4 charges and some other charges I wasn't -- I'd been supervising
5 him for about four months when I got the Montana case. So, I --
6 and I've since closed his file.

7 Q All right. Approximately, how much time did he serve in
8 custody prior to being released on -- on these conditions?

9 A I could not give you the exact amount.

10 Q Okay. Would that be listed in your violation report?

11 A It would be. May I look?

12 Q Well, the violation report's been filed as an exhibit with
13 a prior pleading.

14 A Okay.

15 Q Now, ultimately, did you become aware that Mr. Pauckert was
16 arrested in the State of Washington?

17 A I did.

18 Q And did you supervise him, then, from his initial release
19 from custody up until the time of his arrest in the State of
20 Washington?

21 A There was a seventh (sic) -- seven month -- in between
22 there where I had transferred to the Sandpoint office. So, for
23 the majority of his supervision, I did supervise him; but there
24 was seven months where he was supervised by Doug Hall while I
25 did the sex offenders in Bonner County.

SENTENCING - SEPTEMBER 27, 2013
M. HOWARD/DI - OHMS

1 Q All right. Now, ma'am, did he have any specific conditions
2 related to his place of residence?

3 A He did. He was to reside at an approved residence.

4 Q Okay. And where -- initially, where was that supposed to
5 be when he was released?

6 A His only approved residence was with his parents in
7 Hauser -- Hauser Lake, Idaho, on Cloverleaf.

8 Q Okay. Did he have any conditions with regard to treatment?

9 A He was to attend sex offender treatment.

10 Q Did he have any conditions with regard to the taking of
11 polygraph examinations?

12 A He was to take a polygraph minimally annually. At a
13 minimum, once every year.

14 Q For what purpose?

15 A Primarily -- initially, it was for full disclosure
16 polygraph to disclose all of his victims. And, then, after
17 that, it was a maintenance polygraph to make sure that he was
18 complying with the terms of his parole and had not committed any
19 other crimes.

20 Q Okay. Did he have any special conditions with regard to
21 the use of alcohol or the visiting of establishments whose
22 primary purpose was the service of alcohol?

23 A Yes. He was not to enter any bars, and he was not to
24 consume any alcohol.

25 Q Did he have any special conditions with regard to entering

SENTENCING - SEPTEMBER 27, 2013
M. HOWARD/DI - OHMS

1 into relationships with women?

2 A Two special conditions, No. 8 and 9, of our Sex Offender
3 Agreement of Supervision. 8 specifies that he cannot enter into
4 a relationship with any woman unless his treatment provider and
5 probation officer have met this person and are able to know that
6 this person can give effective consent.

7 And, then, No. 9 states that they cannot enter into a
8 residence (sic) -- or into a relationship with a woman or a man
9 if they are -- have any, even, joint or full custody of a minor
10 child. Nor can they reside in a home where minor children
11 reside.

12 Q Did he have any special conditions related to the
13 unsupervised contact with children, generally?

14 A He was to have no unsupervised contact with minors under
15 the age of 18.

16 Q Did he have any special conditions related to the
17 possession of pornography?

18 A He was not to possess or view or have any access to
19 pornography.

20 Q Did he have any special conditions related to the -- his
21 access to the Internet?

22 A He was allowed no Internet access unless it was through Job
23 Service or a college if he was attending college. He could
24 access it only for college or work purposes.

25 Q All right. Now, ma'am, as -- during the course of your

SENTENCING - SEPTEMBER 27, 2013
M. HOWARD/DI - OHMS

1 supervision of the defendant, did you -- prior to his arrest in
2 the State of Washington, did you have information that he was
3 violating any of these conditions other than the condition
4 related to the polygraph? And we'll set that aside and talk
5 about it separately.

6 A I knew that he was -- he was violating the polygraph, and I
7 knew that he was violating curfew. I was made aware of the fact
8 that he had been violating all of the conditions that he
9 violated around the middle of March, 2012.

10 Q And how did you become aware of that?

11 A I received a phone call from one of his -- I guess she was
12 an ex-girlfriend who was pregnant. And she, then, filled me in
13 on that and, then, further investigation lead to other
14 allegations. But, up until March 12th, 2012, I had no idea of
15 the extent of his violations.

16 Q All right. And who was that that contacted you?

17 A Her name was Felicia Murph.

18 Q And what was it about the information she provided that
19 lead you to believe that he was in violation of conditions?

20 A Well, she had met him -- according to her information,
21 she'd met him a year before in a bar. They went to a bar. They
22 had some drinks with a friend. Felicia let me know that she was
23 pregnant -- around five or six months at that time, which was
24 March, 2012 -- and that he had a child that was born around the
25 first of the year to another woman and --

SENTENCING - SEPTEMBER 27, 2013
M. HOWARD/DI - OHMS

1 Q I'm sorry. Did you know about the other woman?

2 A Pardon me?

3 Q Did you know about the other woman?

4 A I did not know. He -- no, he -- Michael was not in any
5 approved relationship. Previously, he had been approved to date
6 his, then, ex -- or, now, ex-wife. But, since he got a divorce
7 from his wife, he was not allowed to enter into a relationship
8 without approval.

9 Q Okay. So, the information that he had a child and that a
10 second woman was pregnant was an indication of violations of his
11 conditions of --

12 A Yes. Felicia --

13 Q -- parole.

14 A Yes.

15 Q Did you subsequently learn of an additional relationship
16 that was unapproved?

17 A I did. I only learned of the one with Cesley after his
18 arrest in Washington.

19 Q Who are you referring to?

20 A Okay. He had the Baby Mama 1, Baby Mama 2. So, it'd be
21 Baby Mama 3, Cesley Dodge.

22 Q All right. Is that where he -- the woman with whom he was
23 residing at the time of his arrest?

24 A Yes.

25 Q And do you know whether Cesley Dodge had custody of a minor

SENTENCING - SEPTEMBER 27, 2013
M. HOWARD/DI - OHMS

1 child at that time?

2 A According to the reports and Cesley herself stated that she
3 had a year-and-a-half-old child. Felicia also had a nine or
4 ten-year-old child that -- and he resided in both those women's
5 homes.

6 Q Were either of those women approved as chaperones?

7 A No.

8 Q And what does that mean?

9 A A chaperone agrees to supervise the defendant when they are
10 around children and make sure that they are not allowed to
11 physically -- physically touch the child and make sure they're
12 never alone with the child.

13 Q All right. Were you aware at the time of evidence that the
14 defendant was using a computer to access the Internet?

15 A I was. Felicia gave me his Facebook account and his email
16 account.

17 Q And what did you learn based on that?

18 A He had closed the Facebook account and the other account as
19 soon as he found out that she had contacted me. So, I was
20 unable to access either one of those accounts.

21 Q Did you learn what identity he used on -- in accessing the
22 Internet?

23 A Che'Miguel is, I think, what his -- his Facebook account
24 was under.

25 Q All right. Now, let's talk about the polygraphs for a

SENTENCING - SEPTEMBER 27, 2013
M. HOWARD/DI - OHMS

1 moment. What was the violation that you were concerned about
2 with regard to the polygraphs?

3 A The major concern that I had with the polygraphs was he
4 kept -- initially, he kept failing it. And, then, in 2009, I'm
5 told -- or 2009 was the last polygraph. And every time I would
6 tell him "You need to do a polygraph," he would say, "Yeah, I
7 will. I will get it done."

8 And, then, due to, probably, just having too many people on
9 my caseload, I was -- I let him slip through the cracks. It
10 was, actually, two years before I told him to get another
11 polygraph. I -- actually, I told him to get a polygraph; and I
12 probably should have arrested him for not doing the polygraph.
13 But it kind of slipped past me.

14 Q Okay. So, was his last polygraph completed on October 26,
15 2009?

16 A It was.

17 Q Did he fail to appear for a polygraph on May 25, 2011?
18 (Interruption by the reporter)

19 Q Did he fail to appear for a polygraph on May 25, 2011?

20 A He did.

21 Q Did he fail to appear for a polygraph on March 29, 2012?

22 A He did.

23 Q Now, through the supervision itself, including the use of
24 the polygraphs, did you learn information about the nature and
25 number of other minor victims of Mr. Pauckert?

SENTENCING - SEPTEMBER 27, 2013
M. HOWARD/DI - OHMS

1 A Mr. Pauckert, from the time he was 18, had 10 --

2 MR. FISCHER: Well, I'm going to object, your Honor.
3 This -- we're going way outside the scope here of what this case
4 is all about. You know --

5 THE COURT: Well --

6 MR. FISCHER: I don't -- I don't have any reports on
7 what these polygraphs were or anything like that. I mean,
8 Officer Howard is -- I understand that she's looking for
9 Mr. Pauckert and that he jumped and -- and left. But now we're
10 getting so far afield that I don't know where we're going with
11 this.

12 THE COURT: All right. Mr. Fischer, your objection's
13 sustained. Mr. Ohms, I understand that the State of Idaho may
14 or may not revoke Mr. Pauckert's parole. But I don't intend to
15 get into the details of that.

16 MR. OHMS: I understand, your Honor. I --

17 THE COURT: Only as it relates to the sentencing here.

18 MR. OHMS: I -- may I explain to the Court why I
19 believe it does relate?

20 THE COURT: Yes.

21 MR. OHMS: I think, under the 3553 factors, the Court
22 is asked to consider this defendant as a whole person. And the
23 defense has proffered to the Court an hour-long video in which
24 these issues are discussed, including what -- what exactly it
25 was that he was convicted of. In essence, the defense has

SENTENCING - SEPTEMBER 27, 2013
M. HOWARD/DI - OHMS

1 proffered an explanation and characterization of Mr. Pauckert's
2 violations or offenses relating to sexual misconduct with
3 minors. That's been proffered. And -- and it's -- it's not an
4 accurate portrayal based upon this witness's information and
5 experience.

6 So, in part, I was trying to correct the record that's
7 already been proffered by the defense.

8 THE COURT: Well, isn't that, in part, already
9 corrected by the Presentence Investigation Report itself?

10 MR. OHMS: It's not because there's much more, I
11 believe, specific information than what's been provided to the
12 Court. And I -- I respect the Court's ruling because the Court,
13 ultimately, determines what's of interest to it for purposes of
14 sentencing. But I do think it may be of value for -- to be
15 placed on the record, at least, that the victims that we're
16 talking about are not simply, you know, 16-year-old girls who
17 are somehow precocious and acting older than they are in
18 consensual relationships; that there is -- that there's more to
19 this that caused the supervision to be -- that caused these
20 conditions to be serious conditions and, ultimately, provoked
21 the defendant to abscond.

22 And, so, it's -- it's part of the -- the whole story here
23 of the case. The defendant had failed polygraph examinations.
24 He was failing to take polygraph examinations. He references
25 polygraph examinations in letters that have been proffered to

SENTENCING - SEPTEMBER 27, 2013
M. HOWARD/DI - OHMS

1 the Court. And that kind of goes to the heart of -- of what
2 happened in this case.

3 THE COURT: Well, what further questions do you have
4 of Ms. Howard that --

5 MR. OHMS: My question, your Honor, with regard to
6 that, was to ask her what was learned about Mr. Pauckert's --
7 the -- the nature and number of victims that he had. In other
8 words, what were the -- what was the age range of victims and --

9 THE COURT: All right. I'll allow that.

10 MR. OHMS: -- what was the number?

11 THE COURT: I'll allow that.

12 MR. FISCHER: If -- if I might, I think if the Court
13 will -- is going to allow that, which it has indicated it is,
14 then I would ask that either passed or what the results of the
15 polygraph were. It shouldn't be used as an indication that -- I
16 mean, it could be used as an indication that he passed -- he --
17 he didn't pass a polygraph or the polygraph was not
18 inconclusive. But it can't -- passing or failing a polygraph
19 can't be brought in to determine whether a violation actually
20 occurred and what type of violation.

21 So, I would ask the Court to limit these questions very
22 carefully.

23 THE COURT: I understand your objection.

24 MR. OHMS: And I think I do as well, your Honor.

25 THE COURT: Pose the question again.

SENTENCING - SEPTEMBER 27, 2013
M. HOWARD/DI - OHMS

1 MR. OHMS: All right.

2 Q (BY MR. OHMS) Through the polygraph process, are there, in
3 fact, interviews that are conducted with Mr. Pauckert?

4 A Yes.

5 Q All right. So, did he, then, make statements or admissions
6 about the nature and number of his victims?

7 A He made disclosures, yes.

8 Q Disclosures. Fine. And, based upon those disclosures,
9 what was the age range of the victims?

10 A 1-year-old, 11-year-old, 12-year-old, and, then, several
11 13, 14, 15.

12 Q And how -- what was the -- the number that, ultimately, was
13 disclosed?

14 A Including the 1-year-old, it would be 11. And, then, if
15 you included that he was 11 -- so he was a minor -- at 11 with a
16 male 11-year-old. So, 12.

17 Q In -- ultimately, did you seek a warrant for Mr. Pauckert's
18 arrest?

19 A I did.

20 Q And why did you do that?

21 A He had absconded from supervision, he failed to take a
22 polygraph, and he had been around minor children.

23 Q And, approximately, when did you seek that warrant?

24 A I was notified of it around March 12th. So, around -- the
25 end of March he failed to take a polygraph, and I requested the

SENTENCING - SEPTEMBER 27, 2013
M. HOWARD/DI - OHMS

1 warrant in April.

2 Q And you were notified of what, ma'am?

3 A Oh, the fact that he had been violating his probation.

4 That was March 12th. And, so, the end of March he was to take a
5 polygraph. He didn't do that so, in April, I requested a
6 warrant.

7 Q All right.

8 A And I would have to look at my probation -- or parole
9 violation to tell you the exact date.

10 Q Did you have information at that point that he was no
11 longer living with his parents?

12 A I did.

13 Q Did his parents ever report that to you?

14 A They did not.

15 Q Did you -- based on your experience in supervising
16 Mr. Pauckert, did you have contact with his parents?

17 A I did.

18 Q Did you ever experience his parents attempting to protect
19 or shield him?

20 A Yes.

21 MR. FISCHER: I -- this is speculation. This --

22 THE COURT: No, overruled. She can answer if she
23 knows.

24 Q (BY MR. OHMS) How so, ma'am?

25 A When he had absconded and I had pretty much figured out

SENTENCING - SEPTEMBER 27, 2013
M. HOWARD/DI - OHMS

1 that he had absconded, I, actually, went out there and talked to
2 his mom. And she reminded me that she was his mother. And, you
3 know, her job as a mother was to protect her son.

4 So, I did not ask her to have him call me or to do anything
5 like that.

6 And, then, during his parole violation, she had recanted
7 part of what she had told me at his house. And -- and that was
8 in an effort to protect her son. I mean, she's a mom.

9 Q I'm not asking you to make a judgment about it.

10 A Okay.

11 Q I'm just asking for the record. Do you know of any
12 legitimate reasons why the defendant would -- would have a
13 reason to have your home address or -- or personal data about
14 you?

15 A No reason, whatsoever.

16 MR. OHMS: Thank you very much, ma'am. Your Honor, I
17 have no further questions of this witness.

18 THE COURT: Mr. Fischer.

19 MR. FISCHER: Can I have a moment, your Honor. Just
20 one --

21 THE COURT: Yes.

22 (Discussion off the record)

23

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SENTENCING - SEPTEMBER 27, 2013
M. HOWARD/CR - FISCHER

CROSS EXAMINATION

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CROSS BY MR. FISCHER:

Q Excuse me. Good morning, Officer Howard. Did -- did -- while Mr. -- well, let me just -- have you ever talked to Cesley Dodge?

A I spoke to her once.

Q Okay. And do you recall when that was?

A Off the top of my head, no.

Q Okay. Was it before Mr. Pauckert's arrest in May, 2012?

A It was.

Q Did you call her at home, or did she call you?

A I called her on a phone number that was given to me by Felicia.

Q Okay. And did you ask if Mr. Pauckert was there?

A No.

Q Okay. What was the tone -- or what was the reason for the call?

A I could not find Mr. Pauckert, and he was not checking in.

Q And -- and why did you call Cesley Dodge?

A Because Felicia felt that she might know where he was at.

Q But you never asked Ms. Dodge if Mr. Pauckert -- if she knew where Mr. Pauckert was?

A I did ask her if she knew where he was.

Q Okay. And what did she say?

A No.

SENTENCING - SEPTEMBER 27, 2013
M. HOWARD/CR - FISCHER

1 Q Okay. All right. And that was the end of it.

2 A No. That -- there was, actually, further phone
3 conversation.

4 Q You called her again a couple of times or --

5 A No. That just was -- there was more involved in that
6 phone -- I only talked to her one time.

7 Q Oh, one time. Okay. Okay. All right. And Mr. Pauckert
8 knew that you wanted to take additional polygraphs.

9 A Yes.

10 Q Okay. And that was just before he, kind of, jumped ship
11 into --

12 A No.

13 Q No?

14 A He had been told several times in the last two years to do
15 a polygraph.

16 Q Right, but this time you demanded it in 2011?

17 A I gave him a deadline in 2012.

18 Q And what was the deadline?

19 A He was to call immediately and schedule an appointment.

20 Q Okay. And what -- what was that time he was to schedule an
21 appointment? You've got a deadline. What deadline?

22 A Well, the deadline depends on the polygrapher's schedule.
23 So, he was to call the next day and schedule a polygraph.

24 Q And did he?

25 A He did.

SENTENCING - SEPTEMBER 27, 2013
GOVERNMENT RESTS

1 Q Okay. And what date was he to take the polygraph?

2 A I would have to look at my notes. It was sometime the end
3 of March.

4 Q Of 2012.

5 A Yes.

6 Q Okay. Thank you.

7 MR. FISCHER: I have nothing else, your Honor. Thank
8 you. Thank you.

9 THE COURT: All right. Anything further, Mr. Ohms?

10 MR. OHMS: No, your Honor.

11 THE COURT: All right.

12 MR. OHMS: May this witness be excused, your Honor?

13 THE COURT: Yes, Ms. Howard. You may be excused.
14 Thank you.

15 (Pause in the proceedings)

16 MR. OHMS: Your Honor, the Government has no
17 additional evidence to present.

18 (Government rests)

19 THE COURT: All right. Mr. Fischer, do you have any
20 witnesses to call or evidence to present?

21 MR. FISCHER: No, your Honor, only the exhibits and
22 the supplements that I've provided previously.

23 THE COURT: And those have been provided to the Court,
24 and the Court has reviewed those.

25 MR. FISCHER: Very good, your Honor.

SENTENCING - SEPTEMBER 27, 2013
OBJECTIONS TO THE PRESENTENCE INVESTIGATION REPORT

1 THE COURT: All right. As well, I should put on the
2 record, I've reviewed the defense sentencing video.

3 All right. Mr. Ohms, I was looking through the material.
4 Maybe you could help me. I want, in my notes here,
5 Ms. Howard's dates in her report. If you could, direct my
6 attention to when she asked Mr. Pauckert to schedule that
7 polygraph in March of 2012.

8 MR. OHMS: I believe, if the Court would look at ECF
9 44, there's a -- are two exhibits that are listed and the second
10 of those is a report of parole violation and that has --
11 actually, sets out when the defendant was sentenced in Idaho
12 and -- and, I believe, you can determine when he went on
13 probation. As far as the exact dates of the -- when he was
14 requested to take polygraphs, those are also set forth in that
15 report.

16 From the testimony that the Court just heard, that was -- I
17 believe the testimony was that he failed to -- that he had not
18 completed a report since October 26, 2009. Excuse me, not
19 completed a polygraph; that he failed to appear for a polygraph
20 on May 25, 2011, and on March 29, 2012.

21 THE COURT: All right. I see that. All right. Does
22 the Government have any objections to the Presentence
23 Investigation Report?

24 MR. OHMS: Just what I -- I filed with the Court, your
25 Honor.

SENTENCING - SEPTEMBER 27, 2013
OBJECTIONS TO THE PRESENTENCE INVESTIGATION REPORT

1 THE COURT: Well, those have been corrected in the
2 report. So, are there any other objections in the report?

3 MR. OHMS: No, your Honor. No, your Honor.

4 THE COURT: All right. I'll hear from you,
5 Mr. Fischer, as to the Presentence Investigation Report. Have
6 you discussed with your client and read the Presentence
7 Investigation Report fully with your client?

8 MR. FISCHER: Yes, your Honor.

9 THE COURT: And I note that you filed objections, but
10 the report was revised. Do you have any continuing objections
11 to the revised Presentence Investigation Report?

12 MR. FISCHER: I do, your Honor, as to I still hold to
13 the objection of the obstruction of justice under 3C1.1. That
14 was not corrected. Although, I -- I do understand that the
15 amended PSR has withdrawn the increase for -- in connection
16 with -- on Page 13, Paragraph 44, was deleted. And it has been
17 reducing -- it's reduced the -- the base -- or the adjusted
18 offense level to 24. I think that, your Honor, under -- under
19 the adjustment for obstruction of justice, considering all the
20 information, and I know it's been a lot of information that this
21 Court had to digest to come to that, whether two points should
22 be added for willfully obstructing or impeding or attempting to
23 obstruction the administration -- the administration of justice.

24 There are several factors here, your Honor, that -- that
25 have to be taken into account. And, I think, first, the -- the

SENTENCING - SEPTEMBER 27, 2013
OBJECTIONS TO THE PRESENTENCE INVESTIGATION REPORT

1 biggest part of this is the obstruction of justice section in
2 the Guidelines in the 3C1.1 themselves because the comments as
3 to the amended -- the addendum to the PSR indicates that
4 Mr. Pauckert obstructed justice under commentary notes 4(A),
5 4(B), and 4(D).

6 When you -- when you look at the guidelines, your Honor,
7 the obstructing and related adjustments under 3C1.1 break down
8 into, and as I indicated in my objection, two parts: Part 4 and
9 Part 5. And Part 4 is -- is a -- some examples of and -- of
10 covered conduct where Part 5 is examples of uncovered conduct
11 or conduct that would not produce a two-point enhancement.

12 Under 4(A) is "threatening, intimidating, or otherwise
13 unlawfully influencing a co-defendant, witness, or juror,
14 directly or indirectly, or attempting to do so." There's
15 nothing in these letters that the agent suggests and that the
16 United States Probation Office picked up on -- those are five
17 letters that are outlined in the PSR -- nothing in them are
18 threatening, intimidating, or otherwise unlawfully influence a
19 witness or juror or a codefendant.

20 Now, the agent -- McEuen, the agent, spoke of that he
21 believes that this was certainly directed at -- in connection
22 with the -- the comments about the judge and telling what the --
23 Mr. Pauckert telling Cesley Dodge what -- what she should tell
24 the judge are a series of ongoing discussions between Ms. --
25 Ms. Dodge talking and asking the advice from Mr. Pauckert, "What

SENTENCING - SEPTEMBER 27, 2013
OBJECTIONS TO THE PRESENTENCE INVESTIGATION REPORT

1 should I do with all this in my custody battle over Mack,"
2 McKenzie, her daughter. And he's simply providing, "I'll tell
3 you what I'd do." But he's not threatening, intimidating, or
4 otherwise unlawfully doing anything. He's trying to give her
5 some advice that she can take it or leave it.

6 It's not -- under (B), it's not committing or suborning or
7 attempting to suborn perjury and -- and including during the
8 course of a civil proceeding. But we're talking about
9 information that is directly related "to the investigation,
10 prosecution, or sentencing of the defendant's instant offense of
11 conviction, ..." That's right in Application Note, In General,
12 under Paragraph 1: "This adjustment applies if the defendant's
13 [obstruction] ... occurred with respect to the investigation,
14 prosecution, or [sentence] ... of the instant offense ..." None
15 of that is in connection with the instant offense.

16 So, the other apparent -- well, then, we're left with "What
17 about the gun, the .38 Special?" Well, what about the three
18 printers? Well, let's -- if you look at "(D) destroying or
19 concealing or directing or procuring another person to destroy
20 or conceal evidence that is material to an official
21 investigation ..." Well, the -- if the Government -- the
22 Federal Government Agent and the Spokane Police Department did
23 not take the printers as evidence and, as you've heard from
24 Agent McEuen, they are not of evidentiary value, they didn't
25 take them as evidence, then, that's not material to this

SENTENCING - SEPTEMBER 27, 2013
OBJECTIONS TO THE PRESENTENCE INVESTIGATION REPORT

1 investigation. Mr. Pauckert said, "Get rid of them. They're
2 junk. There's nothing to save in that junk." And that's --
3 basically, they're taking up space. Mr. Pauckert does not have
4 the ability to, while he's sitting behind bars, have the ability
5 to get rid of his materials -- material property -- the property
6 of his own. He has to rely on Cesley Dodge to do that. So,
7 he's just giving her information about that.

8 As it comes to the gun, your Honor, the .38 Special,
9 there's bantering back and forth of whether Tyson wants to take
10 ownership of that gun. Well, the gun -- the firearm's already
11 been seized. Everybody knew that. And Mr. Pauckert's telling
12 Cesley, "If Tyson wants it, step up and grab it because he's got
13 a legal receipt for it because his name's on it."

14 Now, the interesting thing about this, Judge, is ownership
15 is not possession. In other words, he admitted to possessing.
16 He's never denied possessing the firearm. When it comes right
17 down to whether he admitted or denied, he has stepped up. He's
18 admitted to possessing the ID kit, the firearm, and he still
19 believes that the firearm is rightfully in Tyson's name. And,
20 if he wants it -- now, Mr. Pauckert has given up all right,
21 title, and interest in the gun. He doesn't want it. And that's
22 part of the plea agreement. And that's put out -- that's also
23 in the PSR.

24 But the difference between ownership and possession is
25 huge. So, he didn't deny possession. And -- and, I think,

SENTENCING - SEPTEMBER 27, 2013
COURT'S ORAL DECISION RE: OBJECTIONS TO THE PSIR

1 that's what you have here is -- and he's not asking to destroy
2 it or conceal it or procuring it -- the evidence. It's -- it's
3 already in evidence.

4 The interesting part of this, if the Court saw that it was
5 under 5, "Examples of Conduct Ordinarily Not Covered" but can be
6 taken into account or applied to the offense level under the
7 guideline structure. So, in other words, it can -- the Court
8 can look at this -- as an example, if it looked under 5(C) and
9 found that "providing incomplete or misleading information, not
10 amounting to a material falsehood, in respect to a present -- in
11 respect to a presentence investigation;" that's the only thing
12 that -- that -- he didn't make any false statements under oath.
13 He never gave a false name or identification. He did avoid
14 fleeing from arrest, but that is not in the context of what this
15 5 of conduct ordinarily not taken into account covers.

16 He didn't lie -- well, about this -- it's not about a
17 pretrial release. So, that's not possible there.

18 These -- these -- if one wants to speculate that all these
19 comments were done to interfere with a investigation, the
20 investigation had already been completed.

21 So, that's -- that's my comments on the PSR.

22 THE COURT: All right. Let's resolve that for the
23 record so you know where we're going from here.

24 The Court has considered the obstruction of justice under
25 3C1.1. I'd note for the record that I agree with you with

SENTENCING - SEPTEMBER 27, 2013
COURT'S ORAL DECISION RE: OBJECTIONS TO THE PSIR

1 respect to Application Note 4(A). There is no evidence the
2 defendant threatened, intimidated, or unlawful interference or
3 influence another person. The "unlawful" there, in my mind,
4 covers giving something of consideration, like, a bribe or money
5 or paying off a juror or witness. It covers those unlawful
6 influence that aren't threats or intimidation.

7 So, I agree with you that Application Note 4(A) does not
8 apply.

9 However, Application Note 4(B) specifically provides that
10 attempting to suborn perjury does apply, does qualify the
11 defendant for two points for obstruction of justice. You've
12 made an argument that it's not related to the instant offense,
13 but the language of 3C1.1 is not only the instant offense of
14 conviction but any relevant conduct and any closely related
15 offense. So, suborning perjury, which merely is asking another
16 person not to tell the truth or the full truth, does qualify for
17 an enhancement.

18 Additionally, while less strong, I also note that
19 Application Note 4(D) includes "attempting to do so." That is,
20 "... directing or procuring another person to destroy ...
21 evidence that is material ... or attempting to do so;" The
22 letters -- and they're outlined in Paragraphs 28, 29, 30, 31,
23 and 32 of the Presentence Investigation Report and are backed up
24 by the physical documents that are in evidence, clearly ask
25 Ms. Dodge to color her testimony, including how many days or

SENTENCING - SEPTEMBER 27, 2013
COURT'S ORAL DECISION RE: OBJECTIONS TO THE PSIR

1 nights he had spent with her, which is clearly relevant to the
2 SORNA violation. He tells her to get rid of the printers. I am
3 extremely cognizant that printers are often used to tie
4 criminals back to the crimes they've committed.

5 And these letters all occurred shortly after he was
6 indicted and arrested and substantially before the trial was
7 scheduled in this case or Mr. Pauckert plead guilty, which is
8 June of 2013. These all occurred a year prior. So, they did
9 have the potential to affect not only the investigation but the
10 trial of the case that was then pending.

11 I also note for the record United States v. Phillips. It's
12 a Ninth Circuit case, 2004. Do not require materiality when the
13 defendant attempts to influence a witness or have a witness
14 perjure herself. The attempt alone is sufficient, and it does
15 not have -- materiality is not necessary nor does the attempted
16 influence need to, actually, come to fruition and be successful
17 in order for the two points to apply.

18 I do find, consistent with the Presentence Investigation
19 Report, because of the lengthy pretrial proceedings in this
20 matter, while the defendant attempted to obstruct justice in
21 June, primarily, of 2012, by June of 2013, when he plead guilty,
22 is one of those highly unusual cases where he gets acceptance of
23 responsibility.

24 So, I am allowing him the two points off for acceptance of
25 responsibility and an additional point for timely acceptance.

SENTENCING - SEPTEMBER 27, 2013
COURT'S ORAL DECISION RE: OBJECTIONS TO THE PSIR

1 So, those are my findings with respect to your objection to
2 the obstruction of justice; and there are no other objections to
3 the Presentence Investigation Report.

4 So, with that comment I accept the Presentence
5 Investigation Report in total.

6 That leaves us, as calculated by the report, a Total
7 Offense Level of 21, Criminal History Category range V,
8 suggesting a guideline range of 70 to 87 months, a 1 to 3 year
9 term of supervised release, a 7500 to \$75,000 fine range.

10 For the record, right now I'm waiving imposition of fine
11 because of the defendant's inability to pay.

12 I will give you further time to talk, Mr. Fischer; but I
13 want to narrow the subject of your argument.

14 So, at this point in time, I want to tell you that I am
15 rejecting departures from the guideline. The Court has
16 considered the Government's upward departure motion and the
17 Presentence Investigation Report. While I think the Court would
18 be justified in departing upward based upon lack of adequate
19 criminal history, I am not departing on that ground per se as a
20 departure from the guidelines.

21 Additionally, I think I could depart upward for the failure
22 of the guidelines to take into account the defendant's offense
23 conduct concerning failure to register as a sex offender.

24 Additionally, I think the Court could consider a departure
25 upward based upon the dangerousness of the bomb as -- as

SENTENCING - SEPTEMBER 27, 2013
ARGUMENT RE: VARIANCE BY MR. FISCHER

1 designed as warranting an upward departure under 5K2.6 where
2 unusual nature of a weapon involved creates a particularly
3 dangerous device.

4 I am rejecting all of those. However, I am still
5 considering an upward variance under 18 United States Code,
6 Section 3353. And, so, at this time, I would hear from you as
7 to anything you want to tell me about my contemplation of an
8 upward variance, using the 3553(a) factors, in formulating an
9 offense, which must be sufficient but not greater than necessary
10 to comply with the purposes of sentencing considering all those
11 factors listed.

12 So, I'd hear your argument now with respect to variance.

13 MR. FISCHER: Thank you, your Honor. I think one of
14 the reasons, under the 3553(a) factors, the characteristics of
15 Mr. Pauckert, his history, his upbringing -- I -- I think it's
16 very important -- and I didn't learn this until late. But
17 Mr. Pauckert was an adopted black child and was considered and
18 is considered a cocaine baby. I provided materials for that. I
19 didn't bring in an expert witness. It's something for the Court
20 to consider that Mr. Pauckert was, potentially, and was more
21 susceptible to an addiction of his own coming from his childhood
22 and in the nature of his birth.

23 It also presents some variation in -- in cognitive
24 thinking, such as, having problems with social settings and,
25 also, compulsivity.

SENTENCING - SEPTEMBER 27, 2013
ARGUMENT RE: VARIANCE BY MR. FISCHER

1 I think one of the things that strikes me most is -- is,
2 watching the video and, also, looking at the PSI, is a mischief
3 -- a malicious mischief charge that Mr. Pauckert, initially,
4 suffered in 2000 -- I believe it was 2004 -- 2002 when he was --
5 when he was fighting with another individual over a girlfriend,
6 apparently, at school and that lead him to damage -- jump on a
7 car and start damaging a vehicle.

8 You know, since then, Judge, he -- in 2002 to 2006, he got
9 into some -- he got into two statutory rapes, a burglary, and
10 a -- a run through Montana where he was convicted. And -- and,
11 from 2006, he's been sitting in jail and -- or coming out of
12 jail and trying to adjust to his life, which he just couldn't
13 get his head around.

14 Some of the letters indicate that he just wants to be a
15 normal guy. Well, I'll get to bomb building as a normal guy in
16 a minute. But I -- I think it's -- the revelations that, you
17 know, whether he's telling the truth or not or whether the
18 admissions he made to the -- to the probation officer from Idaho
19 that we just heard from, how all that occurred, why it occurred,
20 what the thought process was, whether he was changing a diaper
21 on a one-year-old or visiting, I have no idea. I mean --

22 But what you see here is -- is that a young man who runs
23 afoul of the law. And, in 2006, his -- his last conviction up
24 until now, he's -- he's -- he's building a bomb, possessing a
25 firearm, and with false ID kits.

SENTENCING - SEPTEMBER 27, 2013
ARGUMENT RE: VARIANCE BY MR. FISCHER

1 Now, you know, everybody could -- you can speculate, your
2 Honor, as to what this all means. Do you -- do you put this all
3 together and speculate that he was going to run down to Las
4 Vegas after he bombed a building in Spokane and shot his way out
5 of the police department or something? I mean, one could
6 speculate all over the place.

7 But the idea behind this was -- is that Mr. Pauckert was
8 tinkering with this stuff. He was tinkering in making a bomb.
9 Now, what he was going to do with it he'll tell you. He'll tell
10 you when he gets a chance to allocute. But, surely, one can't
11 speculate that it was just something to blow up a person or at
12 an event or location. That's one theory. But there's nothing
13 else that lends to that theory. These are all circumstances
14 that happened independently from each other. And I don't see
15 how anybody could put them together to say that he was planning
16 or had an agenda for all this to -- to occur.

17 Was the bomb dangerous? I think that nature and kind of
18 bomb, especially if you have shrapnel, certainly it's dangerous.
19 It's very dangerous. And I -- I've known kids when I was 11 and
20 12 years old fooling around with dangerous stuff, trying to blow
21 up a shotgun shell, doing all crazy sorts of stuff.

22 This was -- the thing behind this, your Honor, is that
23 it -- when it was found, it wasn't loaded. It wasn't loaded up.
24 The Pyrodex had been taken out. It was not active. Did it have
25 to be disarmed? Certainly it did because they didn't know what

SENTENCING - SEPTEMBER 27, 2013
ARGUMENT RE: VARIANCE BY MR. FISCHER

1 was inside. But what was inside was just a small residue of
2 powder. That means that it had been used or attempted to be
3 used and, then, it was disarmed.

4 Why was it used? What was the attempt? It was Tyson Dodge
5 and Mr. Pauckert, but Mr. Pauckert at the helm, wanting to --
6 and -- and Cesley Dodge all looking at a video and seeing how
7 this could destroy inanimate objects. There's nothing to -- to
8 show this Court that he intended to do anything other than that
9 with this bomb.

10 The video shows that Mr. Pauckert did a lot of good things
11 when he was growing up. He had a nice family and a good
12 upbringing. He hunted. He fished. He had access to firearms.
13 He had a loving grandparents. And -- and would -- would
14 Mrs. Pauckert want to protect her son? Sure. But, you know,
15 going to the extent that -- that -- that she did something wrong
16 in his upbringing, he was -- he was brought up in a racially
17 charged Idaho school system. And that's clear. And does that
18 do something residual to this young man? Well, that's how it
19 all started out and it continued and built and built.

20 And now he -- he gets involved with a family and goes out
21 and constructs a bomb, possesses a firearm, and the false ID
22 kits. He's making for people that -- or attempts to make IDs
23 for a gaming -- or non-gaming card that can only be used in Las
24 Vegas to -- to get a job there. Although he does have his
25 photographs on the computer, there's -- there's nothing --

SENTENCING - SEPTEMBER 27, 2013
ARGUMENT RE: VARIANCE BY MR. FISCHER

1 everything else is speculation. Maybe he was going to make an
2 ID to work in Las Vegas. I have no idea. I don't think anybody
3 can speculate. But Mr. Pauckert will try to give you some
4 answers to that.

5 These survival kits and rape kits, more speculation.
6 Computer searches trying to turn this man into a malevolent
7 child pedophiliac.

8 I -- one can wildly speculate on all of this. But, what
9 the facts show is that these are all independent acts from each
10 other. Nothing was -- there was no agenda. There was nothing
11 to suggest that he had any malevolence in his heart for anybody.
12 In fact, he loved -- and the letter suggests that, while he
13 stayed shortly with Cesley Dodge, he loved McKenzie and in a
14 proper way. They talk all the time about each other.

15 Should he have not been doing that? Absolutely. You know,
16 this is part of respect for the law. That's one of the 3553(a)
17 factors, and I'm sure the Court is dealing -- trying to deal
18 with that and say, "Does he respect the law or not?" Well,
19 obviously, when he takes off from a parole because he's afraid
20 of taking more -- some -- some instrument that's going to,
21 perhaps, show -- a lie detector that -- that parole uses, is he
22 going to fear from that? Yes. And, then -- and, then, he lives
23 with a woman who has a daughter. He wants to be the normal guy.

24 Here's what I'm asking, Judge: I -- that -- he's got a 2
25 to -- 2004 to 2006 criminal history. He's an addict. He has a

SENTENCING - SEPTEMBER 27, 2013
ARGUMENT RE: VARIANCE BY MR. FISCHER

1 high likelihood of being addicted again. And, I think, he has
2 some -- he needs an evaluation, psychological evaluation. I --
3 he's ready for that. He wants to change his life around. Even
4 his letters say, "I'm done with this." When you read his
5 letters, you can -- you can see it in his own handwriting. "I'm
6 done. I -- I praise God. I'm finished with this." He's not
7 malevolent.

8 The thing is, your Honor, is -- is that now we're at 70 to
9 87 months. I'm asking the Court to, when considering all these
10 factors and considering the fact that he has two cases out there
11 in Idaho and Montana that can revoke him so he can spend, at
12 least in -- in the Kootenai County case, he's been revoked now
13 until February of 2014.

14 In the Montana case, in Gallatin County, there's no telling
15 how much time he could get. He's got to go back and face
16 these -- these cases, as well. Who knows what additional state
17 charges could be brought in any place.

18 So, five years, your Honor. I'm thinking five years, I
19 think, for this young fellow to get his life back in order and
20 to send a clear message to him that he has to respect the law
21 and that he can take some addiction classes under RDAP. I
22 think -- I think that's a sufficient but not greater than
23 necessary. It's five years out of a person's life.

24 Now, I'm going to ask the Court one other thing. Because
25 of all this and because of the things that he's looking at in

SENTENCING - SEPTEMBER 27, 2013
ARGUMENT RE: VARIANCE BY MR. FISCHER

1 Montana and -- and Idaho again, I'm going to ask this Court to
2 run his federal time concurrent with other state cases that
3 could be implemented, other state charges -- or other state
4 sentences that could be likely implemented out of this.

5 Now, I know the Court doesn't control state courts; and the
6 state courts can, certainly, run these consecutive. But, if you
7 take that step, your Honor, then, it makes clear to the
8 probation -- BOP that his time spent in these cases will be
9 easily adjusted.

10 So, I'd ask the Court to run his -- his sentence concurrent
11 with Kootenai County, CR-2006-3996, and Montana Gallatin County,
12 Case No. DC-05-094.

13 Once Mr. Pauckert squares his life away, he has children --
14 several children -- that he's got to man up and pay child
15 support and get back into their lives. And that's exactly what
16 he wants to do. That's what Mr. and Mrs. Pauckert -- his mother
17 and father are here in this courtroom today. They are
18 grandparents who are taking care of some of his children. They
19 see him on a -- routinely. His ex-wife is here. Mr. Pauckert's
20 ex-wife is here as is his sister. They're very supportive of
21 this young man.

22 And I'm asking the Court to take all these circumstances
23 into account and not look at them as a malevolent monster
24 pedophile but a man that made some stupid blunders for -- for,
25 what I perceive such an intelligent person, blunders that he'll

SENTENCING - SEPTEMBER 27, 2013
ARGUMENT RE: VARIANCE BY MR. OHMS

1 regret for the rest of his life.

2 THE COURT: Thank you, Mr. Fischer. Mr. Ohms, I'll
3 hear from you, understanding that I have read your sentencing
4 memo.

5 MR. OHMS: Thank you, your Honor. I'll try to keep my
6 remarks brief, then, in light of that. I don't think that the
7 issue here is whether the defendant is a malevolent person.
8 That is where we venture off into speculation.

9 What we're looking at are his acts. Defense asks us not to
10 speculate. And I think the way you avoid that is by looking at
11 the search strings that the defendant created because that, more
12 than anything else, gives you direct insight into his state of
13 mind. What were his interests? What -- what is it that he was
14 focused on?

15 We have a case here where I think it would warrant a
16 sentence at the high end of the guideline range based upon two
17 of the factors under 3553. One of those is adequacy of the
18 deterrence because, as the Court's heard from testimony today,
19 the defendant was not deterred at all from his prior contact
20 with the Court system. In fact, he was on a fairly strict
21 regime of supervision with a number of specific conditions; and
22 those conditions included things like no possession of
23 pornography, setting completely aside the issue of whether it's
24 child pornography. He had to have prior approval of
25 relationships. All of that stuff was completely disrespected by

SENTENCING - SEPTEMBER 27, 2013
ARGUMENT RE: VARIANCE BY MR. OHMS

1 this defendant.

2 So, based upon the need for an adequate deterrence and,
3 also, I believe, to reflect the seriousness of the offense and
4 to promote respect for the law, this Court, I believe, should --
5 based on those -- sentence the defendant to the high end.

6 But I think that this really -- there's issues here that go
7 beyond that. And, fundamentally, the question here is: Does
8 the community require protection from this individual? And, if
9 so, what is necessary and reasonable in order to accomplish
10 that? And I believe that the answer to that question, based
11 upon the evidence, and -- and -- and the evidence is a defendant
12 that was non -- ultimately, noncompliant with his supervision.
13 He knew he was going to be found out and noncompliant in a
14 multitude of ways. He was resistant to the polygraph;
15 ultimately absconds; becomes a fugitive; continues to live in a
16 relationship where a child was present in continuing in
17 violation of his supervision; takes up an illegal trade; obtains
18 a firearm; obtains ammunition. And, you know, I asked Agent
19 McEuen about the money -- or the amount of money on that receipt
20 because -- I believe it was \$80. That's not a small amount of
21 money for a person who, based upon some of the defense material
22 that was provided, his principle problem was lack of employment.
23 This is a fairly conspicuous expense on his part, and it's
24 entirely illegal. It's not just the firearm he can't possess,
25 but he can't possess the ammunition.

SENTENCING - SEPTEMBER 27, 2013
ARGUMENT RE: VARIANCE BY MR. OHMS

1 There's also an indication in some of the defense material
2 and, I think, it's kind of implicit in some of the questions
3 about the firearm being older; that somehow this is a -- a
4 relic, a museum piece. But, if the Court would consider the
5 stipulated facts that are set forth in the plea agreement, on
6 Page 9 of the plea agreement, at the top of the -- top of the
7 page, it indicates that when witness -- "Witness 4 said that
8 approximately two weeks prior to the Defendant's arrest he heard
9 what appeared to be a car alarm and saw the Defendant go outside
10 with the handgun to investigate." This was not a museum piece
11 that was going to be put in a -- on display somewhere. This was
12 a functioning firearm that he treated as a -- as a weapon.

13 The Court -- I would encourage the Court not to consider
14 the events this case in isolation, but they have to be and
15 should be considered as a whole because it's really as a whole
16 that I think we're confronted with the need to protect the
17 community.

18 Based on those factors, your Honor, we're asking the Court
19 to sentence the defendant at the statutory maximum for Counts 1
20 and 2. That's ten years. The Court could go higher for
21 Count 5. I don't -- I think that -- if we're looking at what is
22 necessary and reasonable, I think that the statutory maximum for
23 Counts 1 and 2 is appropriate.

24 The only additional thing I would ask the Court to
25 consider, I believe that it may be appropriate in this case, is

SENTENCING - SEPTEMBER 27, 2013
DEFENDANT'S RIGHT OF ALLOCUTION

1 the question of supervised release. I think that's an important
2 issue with this defendant. I think it's an important factor in
3 considering what may be necessary to protect the community.

4 If the Court were to consider sentencing the defendant to 3
5 years of supervised release on Counts 1 and 2 and impose a
6 3-year consecutive term of supervised release for Count 5, I
7 believe that that would be appropriate in this case, again,
8 for -- in the interests of protecting the community.

9 Thank you, your Honor.

10 THE COURT: All right. Thank you.

11 Mr. Fischer and Mr. Pauckert, please come forward.

12 Mr. Pauckert, this is a time called "allocution." It's your
13 ability to tell me anything you want me to know prior to
14 pronouncing sentence. I'll hear from you now.

15 THE DEFENDANT: Okay. Thank you, your Honor. At the
16 time I had met Cesley, I'd known her since I was 13. She's been
17 a friend of the family for as long as I can remember. I was --
18 I was on parole when I met her, and I was also registered to go
19 to college in the spring. We -- we started hanging out,
20 roughly, around August of 2011 and at -- at a bonfire. It was
21 my sister's birthday party, and she was there. I mean, she --
22 this is a friend that knows everything about -- everything about
23 our family. I felt -- I felt pretty comfortable around her and
24 her family. Her mom and her brothers all know me and knew --
25 knew the extent of my criminal record.

SENTENCING - SEPTEMBER 27, 2013
DEFENDANT'S RIGHT OF ALLOCUTION

1 So, as time went on, I got to be more comfortable around
2 them. And, I mean, I -- I felt like we were going pretty good.
3 I felt like we had a -- a family. She became pregnant later on,
4 and it was kind of, like, solidified the family unit together.

5 I -- we used her laptop to research a number of things.
6 One of our favorite shows to watch was "Doomsday Preppers" on
7 National Geographic. And we saw on one where a family got
8 involved with, like, a malitia. And me and her, I don't know,
9 that's just kind of our things. Like I said, we met at a
10 bonfire, so ...

11 We researched the malitia thing online. It was -- from
12 what I read on the -- their website, they offered a lot of
13 survival techniques; and we thought that was pretty cool.

14 She got a call from Marla Howard after I absconded, and she
15 was looking for me. After that, we -- we went back onto her HP
16 laptop; and we researched, like, who -- who looked for parolees
17 absconding. So, we -- we pulled up a list of, like, ideas,
18 like, who -- if the U.S. Marshals came to look for you or if
19 they sent out independent contracting, I don't know, officers.
20 So, this was all stuff that we researched.

21 We also researched how to make a bomb. We saw on YouTube a
22 bunch of guys going out in the woods and blowing stuff up. It
23 appealed to me and Tyson. So, we started researching it more or
24 less. On top of that, Rebecca Dodge used to work at an
25 explosive factory. So, she told us everything there was to know

SENTENCING - SEPTEMBER 27, 2013
DEFENDANT'S RIGHT OF ALLOCUTION

1 about explosives beforehand. We further researched it. And, I
2 mean, the searchs show just, like, how involved it was.

3 But our objective wasn't to harm anybody. Like -- like Bob
4 said, I mean, we went out. We were going to try to blow up a
5 watermelon. I was going to use a piece of plywood -- a few
6 pieces of plywood at the house to -- as, kind of like, a
7 backdrop or something and, then, record it. Our -- our
8 objective was to generate viewers on YouTube.

9 I did not know it was one directional. That was not my --
10 my idea or implications for the device.

11 I did know I wanted to get as far away from it as possible.
12 So, that's why we used the remote door switch -- the doorbell
13 switch.

14 We tried to detonate it. It didn't work. I'm not an
15 explosives -- clearly, I'm not an explosives technician. It
16 didn't work. And, so, I -- I realized it was pretty stupid. We
17 could get hurt. And, moreover, somebody else could get hurt.
18 So, I decided to take it apart.

19 Once I got home, I took it apart. I detonated the electric
20 fuse, or whatever they're calling it; and I threw it in the
21 trash -- or I threw most of the components in the trash that
22 housed the -- the black powder inside the IED.

23 It was -- it was dumb. It was stupid, and that's exactly
24 why I started taking it apart.

25 The -- the gun, .38 Special, was originally something that

SENTENCING - SEPTEMBER 27, 2013
DEFENDANT'S RIGHT OF ALLOCUTION

1 Cesley and I researched. She wanted something for protection.
2 She was -- at her work, she has to park in kind of a -- a
3 dim-lited (sic) parking lot at The Double Tree. She has to park
4 in the Convention Center parking lot, and it's -- there's no
5 cameras. And she's -- on top of that, she was pregnant. So,
6 she's -- she's pretty afraid. So, we started researching guns.
7 She applied for a permit, a concealed carry permit. I don't
8 think it went -- it went through.

9 What we found online was a -- was, actually, a piece of
10 history. And, in doing more research on it, I became more
11 fascinated by, like, just the history of World War II. Like, I
12 thought it was -- I don't know, for a while there, still, pretty
13 fascinated with World War II and, like, how the events unfolded.
14 So, I thought it was pretty cool to have a 60-year-old handgun.
15 I also researched that it could sell for more than what I paid
16 for it. I mean, it certainly wasn't anything -- the ring was
17 given to me. So, for the trade, it was quite a deal. So,
18 researching it, it was kind of fascinating just to have that
19 piece of history.

20 Tyson also wanted to learn how to shoot. So, you know, we
21 brought him along. He was kind of like the tagalong. He was
22 part of the group. And it's -- always Tyson was around. He
23 helped me with a lot of stuff, like, fixing the vehicles; helped
24 me babysit McKenzie when Cesley went to work.

25 So, we arranged -- I arranged for the transaction between

SENTENCING - SEPTEMBER 27, 2013
DEFENDANT'S RIGHT OF ALLOCUTION

1 the ring and the firearm to go in Tyson's name. Obviously, I
2 can't get it in my name. And, so, I gave Tyson the ring to
3 give -- to trade for the firearm. And, I mean, still, if he
4 wants it, he can have it. Like, I really -- after researching
5 so much on the -- on the individual firearm, I was kind of sad
6 to see that it just would be lost. I don't know where it goes
7 from here, but it certainly would be a waste.

8 One -- one time me and Cesley went out to try -- out in the
9 woods. We tried to find a place to go shooting, And we couldn't
10 find a place. So, on the way back, we stopped at Walmart to get
11 groceries. I went in the grocery store, and I remembered that
12 I'd left the gun loaded. I texted her, "Hey, look, the gun's
13 loaded just to let you know." I went inside, bought the
14 groceries, and we went home. I unloaded it at home.

15 As for the false identifications, I was -- I was making
16 them. I was broke. I'll admit it. I was broke. I was making
17 them for money. I wasn't too proficient in making them. I like
18 the attention I was getting from the college girls who wanted a
19 fake ID. I thought it was cool. Like, hey, you know, getting
20 all these numbers from these chicks. And they're letting me
21 take their pictures for ID.

22 That idea didn't get too much farther than that because, if
23 it wasn't one thing, it was another with those printers. I
24 couldn't -- it took me a while. It's too tedious to be
25 feasible. I -- I ended up making one for a friend and that,

SENTENCING - SEPTEMBER 27, 2013
DEFENDANT'S RIGHT OF ALLOCUTION

1 obviously, didn't get to him. I was apprehended by the FBI.

2 But, yeah, the idea of making fake IDs was -- wasn't realistic.

3 Afterwards, Cesley -- after I got arrested, Cesley wanted
4 to know what -- what to do with all my stuff. I told her she
5 could throw away -- she could box up most of my clothes, but she
6 could throw away the big printers -- the three printers if she
7 wanted to. That was that. I wasn't trying to -- I wasn't
8 trying to hide anything or intimidate anybody, but I left her
9 the option of that.

10 I freely admit that all that I did -- all I've done was
11 against the law. Like, it was illegal to possess and to own
12 these things because they were illegal. However, there wasn't
13 one -- there wasn't one common goal or idea for the evidence. I
14 didn't intend to hurt anybody. There was no common purpose for
15 the -- for the charges that are brought upon me.

16 I think the letters were taken out of context. The gun was
17 in Tyson's name. And -- and, like I said, if he wants it, he
18 can surely have it. It would be a shame to see such a piece of
19 history go to waste.

20 The letters pertaining to the -- the custody battle between
21 Cesley and Brad, me and Cesley -- she was pregnant, and she was
22 afraid of losing her own child, her first child. So, we were
23 brainstorming on ways how, you know, she could swing it to her
24 custody judge. I really never meant to intimidate or hide
25 anything. I was trying to -- I was really trying to calm her

SENTENCING - SEPTEMBER 27, 2013
DEFENDANT'S RIGHT OF ALLOCUTION

1 down because she was pregnant. I didn't want that stress to
2 transfer to our child. So, I just told her to minimize
3 everything. I didn't want her to be as stressed out because I
4 could hear it in her voice. And, when she came to see me, she
5 was stressed.

6 She stopped talking to me, though, altogether, abruptly,
7 around the beginning of September. And I was, then, indicted in
8 December of that same year, 2012.

9 The BB gun I got -- it was -- it was a gift. I got a gift
10 certificate from a client for plumbing, sorry. And I used that
11 gift certificate for purchasing the BB gun that was found in
12 the -- one of the bags at the house.

13 Moreover, I'm extremely remorseful for everything that's --
14 that's happened. I've -- this is not what I wanted for my kids.
15 Like, this is the worst of the worst situations. My family --
16 like, I've put so much grief and strain on them. I have a good
17 family. I love them. And this isn't what I want. I see -- I
18 see the pain and stress in them every day. I've made -- I've
19 made action to repair strained relationships. And I'm just so
20 thankful that -- like, I'm overcome with emotion that -- to see
21 that they're even here in court today. Like, it's -- it's
22 pretty awesome. They're a good family. I love them.

23 I understand that I could go away for a long time. I know
24 how much time my sons have lost with me already. And they're
25 walking. They're talking now. And I just -- I don't know.

SENTENCING - SEPTEMBER 27, 2013
DEFENDANT'S RIGHT OF ALLOCUTION

1 This could mean that they grow up without a father, and I don't
2 want that. It's not fair to them. And I've -- I've jeopardized
3 this opportunity for them to -- to have a father. I've
4 jeopardized for them to turn to me for nurturing and advice and
5 parenting. You know, I won't be able to teach them sports or --
6 or how to fish or what have you.

7 From what their moms telling me, they're -- they're pretty
8 active. And they're -- they're really the ones that are missing
9 out on this. I -- I so badly want to turn this all around, and
10 I want to -- I'm a strong worker. Like, I'm not -- I'm not just
11 a piece of crap that -- that doesn't know how to work. Like,
12 I -- I want to do this to help them because I hear the -- the --
13 the strain and the struggle in them, like, every time I talk to
14 them on the phone. Like, their moms are just, like, "Man, where
15 are you at? Like, this is not what I want." It's not something
16 I want either, your Honor.

17 And, having struggled -- looking back, I've taken so much
18 from life. I've taken so much from my parents already, my
19 family. This has really pushed me to give -- to take a step
20 forward and give back, and now I want to do that. Struggling
21 with addiction and cognitive problems my whole life, I want
22 to -- well, I've -- I've been able to reach out with a few young
23 men in jail. And we kind of, like, discuss and talk about
24 problems. And we question motives and actions that have lead us
25 to jail. And, like, in doing so, it's -- it's brought resolve

SENTENCING - SEPTEMBER 27, 2013
COURT'S ORAL DECISION

1 to some of my own problems.

2 I've -- I aim to help others by pursuing a career in
3 chemical dependency and guidance counseling. That's something I
4 really want to do. Like, I thrive by helping others. Like,
5 that's what I do. Like, I thrive by helping other people. It's
6 something I look forward to immersing my children in. It's my
7 chosen career path. Having newly become a father has completely
8 changed the way I think. And it's no longer become about just
9 me. Like, it's got me to look beyond the scope of just myself.

10 I -- I give you my word that I fully understand what I did
11 was against the law and illegal. I also understand that I have
12 wronged my sons, their mothers, and my -- my family because of
13 -- because my actions have lead me to jail. So, really, there's
14 two institutions wronged by me. And I ask for mercy while
15 upholding a sentence from the courts so that -- so that I may
16 also uphold my duties as a father.

17 I've consumed such a pinnacle lesson here. Like, it's
18 pushed me to pursue a more virtuous life. And I, you know, I
19 honor the gift of fatherhood. And I look forward to -- to
20 pursue a career and help them.

21 And that's all I have, your Honor. Thank you.

22 THE COURT: Mr. Pauckert, I'm going to put on the
23 record here that I'm not sentencing you because of your sex
24 offenses in Idaho. The State of Idaho will take care of that.

25 Your sentence here that I will impose is in no way a

SENTENCING - SEPTEMBER 27, 2013
COURT'S ORAL DECISION

1 reflection of the punishment that you may or may not deserve
2 for those crimes in Idaho.

3 What I see here is, first of all and foremost, an immature
4 person, an immature lifestyle, a selfish person. You say you
5 want to help people and help others, but I really find that
6 you're a selfish person; that you've gone from woman to woman to
7 woman. You were adopted. It seems to me that a person coming
8 from your background would realize the importance of having a
9 father and a mother and not having children through numerous
10 women.

11 But I think a selfish person when it comes to the sex
12 crimes in Idaho. You became a fugitive. And what concerns the
13 Court is, according to your mother, you became a fugitive on
14 March 28th when you left the house and never to return. You
15 went to the Sharp Shooting Range three days later. You, then,
16 went on Craig's List and obtained a firearm, an untraceable
17 transaction. You talk about it as a piece of history, but those
18 firearms are a dime a dozen. There's thousands of those out
19 there. But, in your case, you purchased an untraceable firearm.

20 And you've admit and I find that it's your gun. It was
21 your ring that was exchanged for it. This receipt that you've
22 provided to me isn't worth the paper it's written on. It
23 doesn't mean anything. It doesn't mean anything to the Bureau
24 of Alcohol, Tobacco, and Firearms or anybody else because it's
25 an untraceable transaction; and it's not recognized by the law.

SENTENCING - SEPTEMBER 27, 2013
COURT'S ORAL DECISION

1 That was your gun.

2 You say your then-girlfriend wanted the gun for protection,
3 but it wasn't in her car. It wasn't in her purse. It was
4 downstairs, and it was loaded with ammunition.

5 You know, you can say that the Court's speculating as to
6 what you were going to do with all these implements. But what's
7 significant to this Court is the chronology of events occurring
8 after you became a fugitive: Immediately going to the Sharp
9 Shooting Range, immediately acquiring a firearm, building a
10 bomb. That bomb is extremely dangerous. You say you tried to
11 set it off. If that is true, you're lucky you didn't kill
12 yourself.

13 But, for this Court to ignore your personal belongings,
14 your fake ID kit, your two other bags with implements of -- I
15 just call them criminal implements. They're tools of crime.
16 There's no innocent purpose that those things would be gathered
17 together in bags together other than to commit a crime and to
18 become a successful fugitive. It's inconceivable that I should
19 ignore those personal belongings, and it is not speculation that
20 you were on the road to harm somebody; whether it was yourself,
21 whether it was the occupants of your own house because --
22 because of an accidental discharge of that weapon, or the
23 accidental detonation of that bomb.

24 Just for my own purposes -- and there's no explanation, no
25 reasonable explanation, for your Internet searches of law

SENTENCING - SEPTEMBER 27, 2013
COURT'S ORAL DECISION

1 enforcement officers and law enforcement officers' homes.

2 I made a hypothetical. And, so, I looked up, had you
3 killed somebody, whether it would be first-degree murder or
4 second-degree murder. You'd be standing before me. If it was
5 second-degree murder, it would be a level 38. The guidelines
6 would take three points off because it's merely an attempt in
7 this case. You did a substantial step toward the completion of
8 this hypothetical murder. That would be a level 35. If you
9 accepted responsibility, you'd be a level 32. Your Criminal
10 History V dictates a sentence of 188 to 235 months. That's what
11 would happen had the Government charged you under this
12 hypothetical second-degree murder.

13 It'd be even greater -- it'd be life in prison, nearly or,
14 if not, certainly, if it was first-degree murder.

15 It's inconceivable to me that you would become a fugitive
16 and, then, immediately get into this criminal behavior
17 especially, if I were to believe you, which I don't, that it was
18 innocent conduct.

19 I must decide the purposes of sentencing here: Sufficient
20 but not greater than necessary. It's got to reflect the
21 seriousness of the crime. It's got to promote respect for the
22 law. It's got to provide just punishment for the offense. And,
23 most importantly here, it's got to deter your criminal conduct;
24 and it's got to protect the public from any future crime by you.

25 One of the factors this Court is required to consider under

SENTENCING - SEPTEMBER 27, 2013
COURT'S ORAL DECISION

1 the sentencing guideline is other sentences handed out for
2 similar conduct. I can tell you I'm personally aware of 32-year
3 sentences. No bomb going off, no one hurt, but a 32-year
4 sentence in another case.

5 I am aware of other sentences where the bomb's were
6 detonated where it was automatic life in prison in federal
7 court. Several of those cases.

8 So, in terms of looking at other offenses, you're fortunate
9 you didn't hurt anybody. You're fortunate it did not get
10 detonated. But your conduct, your objectionable and objective
11 look at your criminal conduct deserves stringent punishment.

12 I know you can look at yourself and say you're a victim.
13 You know, it's the glass half empty or half full. You can also
14 say, "I don't want to ever be there. I don't want to ever have
15 a child that has to go to foster care. I don't want to ever
16 have a child that doesn't have a father." These are decisions
17 that you have to struggle with, and you have to make. I can't
18 fix you. I can't do it. Only you can fix yourself.

19 I've considered all the factors of 18 United States Code
20 Section 3553. I've indicated earlier that it would warrant an
21 upward departure from the guidelines. But there's two ways to
22 get there, and I chose to get there by a variance. I am
23 considering the nature and circumstances of the offense, the
24 seriousness of this offense, the objective to promote respect
25 for the law, to provide just punishment for this, to provide

SENTENCING - SEPTEMBER 27, 2013
COURT'S ORAL DECISION

1 adequate deterrence, and to protect the public from all future
2 crimes that you may decide or otherwise would have committed.

3 I also find in this case, but for law enforcement
4 intervention, it's clear to me that you had mortal intentions
5 with the above-described weapons. There's no reason to have a
6 gun and a bomb unless you're going to use them to kill somebody.

7 And, as I've indicated, I calculated a hypothetical
8 guideline calculation for attempted second-degree murder; and it
9 would substantially exceed the sentence I'm going to give you.

10 Michael James Pauckert, it is the sentence of this Court,
11 having plead guilty to Counts 1, 2, and 5 of the Indictment,
12 Felon in Possession of a Firearm and Ammunition, Felon in
13 Possession of an Explosive, and Fraud and Related Activity in
14 Connection with Identification Documents, that you be sentenced
15 to the custody of the United States Bureau of Prisons for a term
16 of 144 months. That's 120 months on Count 1, 120 months on
17 Count 2, 144 months on Count 5. All run concurrent except, of
18 course, the 144 months on Count 5 is the longest.

19 The term of imprisonment imposed by this judgment shall run
20 consecutive to the defendant's term of imprisonment in the First
21 Judicial District Court, Kootenai County, Idaho, Case No.
22 CR-2006-2377 and CR-2006-3996.

23 I'll recommend you receive credit for the time you served
24 in federal custody prior to sentencing today, but that's a
25 matter for the Bureau of Prisons to decide.

SENTENCING - SEPTEMBER 27, 2013
COURT'S ORAL DECISION

1 I recommend that you participate in the BOP Inmate
2 Financial Responsibility Program.

3 I will remand you to the custody of the United States
4 Marshal at the conclusion of today's hearing.

5 With respect to supervised release, it's my -- I will
6 impose a three-year term of supervised release. The statutes do
7 not allow me to stack those terms of supervised release,
8 although, I would if I could because I think you need the help
9 and assistance of a probation officer; not as punishment but as
10 a crutch. Three years of supervised release on all three counts
11 to run concurrent.

12 While on supervised release, you shall not -- or excuse me.
13 For the rest of your life, you shall not possess a firearm,
14 ammunition, destructive device, or any other dangerous weapon.

15 You shall cooperate in the collection of a DNA sample.

16 You will be placed under the standard conditions of
17 supervision. In this District, those are 13 standard
18 conditions. Have you had a chance to review those with your
19 attorney?

20 THE DEFENDANT: Yes, your Honor.

21 THE COURT: All right. I can read those to you, but
22 you'll get a copy of those.

23 I'm imposing three additional special conditions.
24 Condition No. 14, you shall submit your person, residence,
25 office, and vehicle to a search conducted by the U.S. Probation

SENTENCING - SEPTEMBER 27, 2013
COURT'S ORAL DECISION

1 Officer at a sensible time and manner based upon reasonable
2 suspicion of contraband or evidence of violation of a condition
3 of supervision. Failure to submit to a search may be grounds
4 for revocation. You shall warn persons with whom you share a
5 residence that the premises may be subject to search.

6 Condition No. 15, you shall abstain from the use of illegal
7 controlled substances and shall submit to testing, which may
8 include urinalysis or sweat patch as directed by your
9 supervising officer but no more than six tests per month in
10 order to confirm continued abstinence from these substances.

11 No. 16, you shall abstain from alcohol and shall submit to
12 testing, including urinalysis and breathalyzer, as directed by
13 your supervising officer but no more than six tests per month in
14 order to confirm continued abstinence from this substance.

15 I will impose a \$100 special penalty assessment for each of
16 the three counts for a total of \$300. That is due immediately.
17 If you don't have the money to pay that immediately, you shall
18 pay not less than \$25 per month while you are incarcerated.
19 After your release from prison, you shall -- if you still owe
20 monetary penalties, you shall pay not less than \$25 per month or
21 ten percent of your net household income, whichever is larger,
22 commencing 30 days after your release from prison.

23 You shall forfeit a six shot, .38 caliber, Smith & Wesson
24 revolver, Serial No. V 448122, and a -- and 50 Remington .38
25 caliber rounds of ammunition.

SENTENCING - SEPTEMBER 27, 2013
COURT'S ORAL DECISION

1 I previously indicated and I do waive the imposition of a
2 fine. I find that you don't have any present ability to pay a
3 fine, and any money that you do earn should be given to your
4 dependents.

5 This is a statement above the advisory guideline range.
6 It's called a variance from the sentencing guidelines. The
7 Court is not bound by the sentencing guidelines. They're mere
8 suggestions at this point. I have considered all the factors of
9 the sentencing statute, 18 United States Code Section 3553(a);
10 and I will provide a written -- further written justification as
11 to the nature of the variance from the guidelines in this case
12 in addition to my statements here on the record.

13 I am remanding you to the Marshal's service. And I also
14 advise you you have a right to an attorney if you desire to
15 appeal this sentence. Mr. Fischer will remain your attorney for
16 that -- for purposes of you filing a Notice of Appeal. That
17 must be done within 14 days if you desire to appeal this
18 sentence.

19 On the Government's motion, I'll dismiss Counts 3 and 4 of
20 the Indictment. Mr. Ohms?

21 MR. OHMS: The Government so moves, your Honor.

22 THE COURT: And, Mr. Ohms, is there anything else in
23 that forfeiture provision that you want forfeited? I've only
24 forfeited the firearm and the 50 rounds of ammunition.

25 MR. OHMS: I don't believe that there was anything

SENTENCING - SEPTEMBER 27, 2013
COURT'S ORAL DECISION

1 else listed in the forfeiture notice of the Indictment, your
2 Honor.

3 THE COURT: Well, I think the bomb components were;
4 but he also agreed to relinquish those. If you don't want an
5 official forfeiture, that's fine with the Court.

6 MR. OHMS: Your Honor, I think we're satisfied with
7 the forfeitures the Court's pronounced.

8 THE COURT: All right. Mr. Pauckert, this Court will
9 be here when you are released from prison and while you're
10 placed on supervised release. You've got a lot of growing up to
11 do, and I hope that you take advantage of that in prison and
12 take advantage of the counseling, treatment, and training that
13 they provide. The Court's not sentencing you for that purpose,
14 but that's something you can take advantage of while you're in
15 prison.

16 THE DEFENDANT: You have my word.

17 THE COURT: You can also get in there and talk to
18 other convicts and become sour and bitter, and you could start
19 blaming everybody else for your problems. But I hope that you
20 mature well enough to realize that you're responsible for your
21 own actions and that you can still make a good life.

22 All right. Anything further, Mr. Fischer?

23 MR. FISCHER: No, your Honor.

24 THE COURT: Anything further, Mr. Ohms?

25 MR. OHMS: No, your Honor. Thank you.

SENTENCING - SEPTEMBER 27, 2013
COURT'S ORAL DECISION

1 THE COURT: All right. We're in recess.
2 (Court adjourned at 12:05 p.m.)
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C E R T I F I C A T E

I, RONELLE F. CORBEY, do hereby certify:

That I am an Official Court Reporter for the United States District Court for the Eastern District of Washington in Spokane, Washington;

That the foregoing proceedings were taken on the date and at the time and place as shown on the first page hereto; and

That the foregoing proceedings are a full, true and accurate transcription of the requested proceedings, duly transcribed by me or under my direction.

I do further certify that I am not a relative of, employee of, or counsel for any of said parties, or otherwise interested in the event of said proceedings.

DATED this 6th day of November, 2013.

/s/ Ronelle F. Corbey

RONELLE F. CORBEY, RPR, CSR
Official Court Reporter for the
U.S. District Court in
Spokane County, Washington

GENERAL INDEX

	<u>PAGE</u>
Sentencing - September 27, 2013.....	2
Government Calls Witnesses.....	4
Government Rests.....	72
Objections to the Presentence Investigation Report ...	73
Court's Oral Decision Re: Objections to the PSIR.....	78
Argument Re: Variance by Mr. Fischer.....	82
Argument Re: Variance by Mr. Ohms.....	89
Defendant's Right of Allocution.....	92
Court's Oral Decision.....	100
Reporter's Certificate.....	111

WITNESS INDEX

<u>PLAINTIFF WITNESSES:</u>		<u>PAGE</u>
LELAND McEUEN	DIRECT BY MR. OHMS	4
	CROSS BY MR. FISCHER	26
	REDIRECT BY MR. OHMS	53
MARIA HOWARD	DIRECT BY MR. OHMS	55
	CROSS BY MR. FISCHER	70
<u>DEFENDANT WITNESSES</u>		<u>PAGE</u>
None		

<u>NO.</u>	<u>DESCRIPTION</u>	<u>EXHIBIT INDEX</u>	<u>ADMITTED</u>
1	1	Photo: Computer Case in Garage	3
2	2	Photo: X-ray of Explosive Device in Computer Case	3
3	3-a	Photo: Explosive Device	3
4	3-b	Photo: Explosive Device. (Alternate View, Color)	3
5	4	Photo: Explosive Device. Detail of Toolmarks	3
6	5	Photo: Explosive Device Components. Pryodex Power, Doorbell Switch, Christmas Lights	3
7	6	Photo: Handgun	3
8	7	Photo: Contents of "Green" bag. Pellet Gun, Condom, Latex Gloves, Flashlight	3
9	8	Photo: Contents of "Camo" Bag. Flex Cuffs, Adhesive Tape, Flashlight, Stocking Mask, Maps	3
10	9	Receipt: Indoor Shooting Range and Gun Shop. Purchase of Ammunition, Eye Protection, Ear Protection, and Target (03/31/12)	3
11	10	Photo: Creative Memories Bag Containing Materials for the Manufacture of Identification Documents	3
12	11	Photo: "Washington" Stencil	3
13	12	Photo: Counterfeit Identifications	3
14	13	Summary Charts: "Searches Conducted by Computer User" prepared by SABB Leland McEuen Summarizing Evidence of "Search Strings" Found on Acer Netbook and HP Laptop Computers	3
15	14	Handwritten Letter Dated "June 13"	3
16	15	Handwritten Letter dated "6-14"	3
17			
18			
19			
20			
21			
22			
23			
24			
25			